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The Solicitors' Journal.

LONDON, FEBRUARY 26, 1870.

IN SOME REMARKS (13 S. J. 996) upon the West Kent Legal and Mercantile Institute we stated our belief that Mr. Albert Henry Elworthy, a solicitor concerned in that institution, had, in June, 1867, been convicted of perjury by a jury at the Central Criminal Court, and that he had afterwards received a free pardon. We have since ascertained the fact to be that the conviction was subsequently quashed by the Court for Crown Cases Reserved upon the following point. The assignment of perjury relied on at the trial consisted in a statement made by the prisoner upon oath, that there was no draft of a certain statutory declaration. No notice to produce the draft in question had been given to the prisoner, but secondary evidence was admitted. The Court for Crown Cases Reserved held that, notice to produce the draft not having been given, the secondary evidence was inadmissible to prove the contents of the draft, and the conviction was in consequence quashed. We regret, of course, that we should have made a statement incorrectly representing the facts as to Mr. Elworthy, and as Mr. Elworthy has complained of the statement made by us, we have now made this correction.* At the same time we cannot but express our surprise that Mr. Elworthy should feel aggrieved at the error into which we were inadvertently betrayed, inasmuch as a free pardon is usually considered as implying that the conviction has been deemed wrong on its merits.

WE PRINT IN ANOTHER COLUMN the bill now before the House of Commons for Amending the Law relating to the Remuneration of Attorneys and Solicitors. The subject is one which needs no recommendation to commend it to the attention of either lawyers or the public. At present, as everyone knows, a solicitor (and we include attorneys in the term) cannot bind his client by any contract as to professional remuneration; no such agreement overrides the client's right to have the costs taxed in the usual manner, though such a contract might, as against the solicitor, have the effect of limiting the amount recoverable by him in an action for payment of work performed. Nor can the solicitor take any security for future costs. The bill proposes to confer upon the solicitor a very wide power of contracting with his client, not only as to the amount of his remuneration, but as to his liability for negligence. After such an agreement a taxation of costs can take place only upon the client proving the agreement to be tainted by fraud or surprise. The bill also empowers the solicitor to take security for future costs. It further reverses the rule that a solicitor trustee can only charge costs when specially authorised in the trust instrument, by enacting that he shall be allowed to charge such costs, unless the instrument otherwise directs.

It is very desirable that the system of lawyers' remuneration should be amended. It cannot be denied that the present system affords a temptation to multiply technicalities, simply because much real work is remunerated on quite an inadequate scale. The payment of conveyancing by length, the absurdity of which has been pointed out by Mr. Joshua Williams, affords an illustration of the principle at work. As Lord Langdale observed in *Davenport* v. *Stafford* (8 Beav. 517), "It is much easier to censure than to remedy this state of things, which, under all circumstances, is more to be regretted than blamed. The blame which there may be is more with higher authorities than with the solicitors, who, having regard to the rules of taxation, cannot help themselves. The remedy, if any is to be found, must be had by the discovery of more improved modes of remunerating solicitors, by which the remuneration may on every occasion be adequate to the real and just value of the important services which are rendered." Our readers can now judge for themselves of the remedy provided by the bill now before the Legislature. We shall, of course, return to the subject, but we must, in the meantime, reiterate the opinion which we expressed when Lord Westbury's bill of 1864 was pending, that in any measure of the kind a line should be drawn between litigious and non-litigious business. We must also express our regret that the bill leaves untouched the defects in the principles on which costs are now taxed by the Court. In 1840 a special committee of the Incorporated Law Society, after reprobating the principle of making length of documents the scale of remuneration, advocated the appointment of a taxing board.

MR. DENMAN AND MR. LOCKE KING have brought in a short bill to amend the "Evidence Further Amendment Act, 1869." The preamble of the bill states that "doubts have arisen as to the extent and meaning of the words 'court of justice' and 'peculiar judge,'" in the 4th section of the Act of 1869. It is then proposed to enact that these words "shall be deemed to include any person or persons having by law, or by consent of parties, authority to hear, receive, and examine evidence." The object of the bill, therefore, is to extend the making of "the promise or declaration" provided by the 4th section of the Act of 1869, to witnesses examined in arbitrations under 9 & 10 Will. 3, c. 15, as well as under the Common Law Procedure Act, 1854. This section seems to apply only to *viva voce* evidence, and not to affidavits, as the phraseology is "any person *called* to give evidence." Persons making affidavits, therefore, must do so upon oath, unless they come within the scope of section 20 of the Common Law Procedure Act, 1854. It would be desirable, if the 4th section of the Act of 1869 is to be amended at all, to introduce some words which would extend it to the making of affidavits as well as to *viva voce* evidence. There would thus be a uniformity in the law on the substitution of a declaration for an oath.

Lastly, while amending the Act of 1869, it would be desirable to set at rest the doubt which there is, whether witnesses under sections 2 and 3 of that Act are compellable to answer questions or only competent. In the supplement to the third edition of "Powell on Evidence" Messrs. Cutler & Griffin express an opinion that such witnesses are compellable as well as competent except where they are protected by the proviso to section 3, and this would seem to be the fair construction to put upon the explanation of the Act which Lord Penzance gave to the Prince of Wales on his entering the witness-box in the Mordaunt case.

THE CASE OF *Mordaunt* v. *Mordaunt*, which has occupied the Divorce Court for so many days, raises an im-

* We subjoin the headnote (taken from the *Law Reports*, 1 C. C. R. 103) of the report of the decision questioning the conviction:—

THE QUEEN *v.* ELWORTHY.

Evidence—Notice to produce.

The prisoner, a solicitor, was indicted for perjury in having sworn that there was no draft of a certain statutory declaration made by a client. No notice to produce the draft had been given to the prisoner; and upon his trial it was proved to have been last seen in his possession, secondary evidence having been given of its contents.

Held, that, in the absence of such notice, secondary evidence was inadmissible.

portant question of law. The petitioner seeks to obtain a dissolution of his marriage on the ground of the respondent's adultery. The citation was served on the respondent on the 30th of April, 1869. Subsequently, an application on her behalf was made to stay the proceedings on the ground that she was of unsound mind, and unable to prepare her defence. It has been admitted by the petitioner's counsel that the respondent is now insane; and the question is therefore whether, on the 30th of April, or at any and what time afterwards, she was of sound mind. There is no question now as to the respondent's state of mind before the 30th of April.

The present inquiry is founded upon the assumption that it is an answer to a suit for dissolution of marriage that the respondent is then insane. We believe the only direct authority on this point is *Bawden* v. *Bawden* (10 W. R. 292) where it was held that a suit for dissolution of marriage cannot be maintained against a lunatic. It has been decided that a lunatic can prosecute a suit for nullity of marriage, *Earl of Portsmouth* v. *Countess of Portsmouth* (1 Hagg. Ecc. 356), *Hancock* v. *Peaty* (Law Rep. 16 D. M. 335); or for divorce, *Parnell* v. *Parnell* (2 Hagg. Const. 169); and a minor can sue for a divorce, *Barham* v. *Barham* (1 Hagg. Const. 5) and *Morgan* v. *Morgan* (2 Curt. 679), and be made respondent in a suit for divorce: *Beauraine* v. *Beauraine* (1 Hagg. Const. 498). These appear to be the only cases in the Ecclesiastical or Divorce Courts at all bearing on the question involved in *Mordaunt* v. *Mordaunt*.

In ordinary civil proceedings the lunacy of a plaintiff or defendant is no bar to an action for a wrong committed before lunacy. In criminal proceedings, on the other hand, the lunacy of the accused is an absolute bar to his trial. This is usually stated to be because a lunatic cannot provide for his defence. There is, however, a further reason, viz., that a trial would be a useless proceeding, because by a very old principle a lunatic cannot be punished for his crimes committed when sane (3 Inst. 6). This principle has been frequently recognised in statutes. In *Bawden* v. *Bawden* the Court followed the analogy of criminal rather than of civil proceedings, and allowed the lunacy of the respondent to be a bar to the petition. There seems, however, to be some strong reasons against this decision which possibly might not be followed if the the point were argued in *Mordaunt* v. *Mordaunt*.

The object of criminal proceedings is the punishment of the offender, not the benefit of the person injured, who in theory has no control over the proceedings. There is no question as to the character of the prosecutor, and the question is solely whether the crime has, in fact, been committed. The object of a suit for dissolution of marriage is very different. No punishment can be inflicted on the respondent; the proceedings are directly for the benefit of the petitioner, who can institute or refrain from instituting them, and can stop them at his pleasure, and the petitioner may by his own previous misconduct be deprived of his right to the relief prayed for (section 37 of 20 & 21 Vict. c. 85.) It is, no doubt, a serious thing for a respondent to be liable to have his or her *status* altered by a decree made during incapacity to resist, but to hold that under no circumstances whatever can this be done may cause very great hardship to a petitioner. Whatever may be the ultimate decision it would be well that the matter should receive more consideration than seems to have been given to it in *Bawden* v. *Bawden*.*

WE HAVE ONLY BEEN ABLE to obtain a copy of the Jurisdiction of the Judges Bill, which has been introduced into the House of Lords by the Lord Chancellor, as we were about to go to press, and of course it is not easy to form a definite opinion as to its probable working, without a careful perusal. We understood, however, from the speech of the Chancellor that it was to provide that a judge of any one of the common law courts may sit as a judge of any other of the courts; that each court may be divided and sit at the same time as two courts, and may also hold as many *nisi prius* courts as may be expedient. Besides this, the Home Circuit is to be abolished, and in its place there are to be sittings in Middlesex and London during the circuits. This, however, is to be done by a subsequent bill.

We have constantly advocated the transfer of business from one court to another, which is something similar to the scheme proposed of a transfer of judges from one court to the other from time to time. It is not, however, quite the same thing, and whether it will be equally efficacious is, in our opinion, somewhat doubtful. It can hardly be considered that the practice of taking two judges from the other courts to the Divorce Court to form the full court has worked well. We presume the idea is that whenever the business of any court requires two courts to be sitting *in banc* at the same time, the Chief Justice is to send to the Chiefs of the other courts and request the loan of a judge or two to help make up the second court, and if this request should not be complied with, or the necessity for it should be disputed, of course the matter must drop. Much, therefore, depends upon unanimity between the Chief Justices; and by the bill, as drawn, compliance with the request is to be entirely optional with the judges requested to assist. One point deserves notice—viz., that although the substitution of a new court of appeal for the Exchequer Chamber is to be provided for by a subsequent bill, yet it is an essential part of the scheme, for otherwise the appeal from judges sitting temporarily in a court not their own, would be to themselves in the Exchequer Chamber. It is however, in the trial of cases at Nisi Prius that the bill, if it had been well drawn and acted on in good faith by the judges and associates, might do most good. If it comes to be understood that any judge sitting at Nisi Prius, who has finished his list for the day at an early hour, is, instead of rising, to take cases from the day's list of any other Nisi Prius judge who requires assistance, the present necessity for putting a large number of cases in the list every day will be avoided. As it is, unless a long list is made, if the cases inserted prove shorter than the average, time is lost, and to obviate this long lists are made and parties are constantly kept waiting about the courts for days before their case is reached. Under the new system, if acted on as we suggest, the number of cases in each day's list may fairly be reduced to about half the present number, and then there will be no reason why the cases on the list should not be cleared off from day to day, without the monstrous waste of time and expense which now takes place. We doubt, however, whether the bill, as drawn, would enable this to be done. It appears to us to require considerable amendment, without which it is likely to be practically inoperative.

The abolition of the Home Circuit will, so far as the interests of suitors having causes for trial are concerned, be an unqualified benefit. The Lord Chancellor said nothing about the criminal business, but the greater part of it certainly can be conveniently disposed of at the Central Criminal Court.

The alteration will, however, strike a great blow at the whole circuit system, so far as the Bar are concerned. The Middlesex sittings, held during circuit, must, we think, be open to the whole Bar, as the Middlesex sittings at other times are; and this being so, it is obvious that the present members of the Home Circuit must in their turn be allowed by their brethren to practise in other circuits without special retainers. Whether they do this by each selecting one other circuit, or by going where they like, the whole system will have been broken in upon. There will no doubt grow up a bar which will attend regularly in London and Middlesex during the circuits, and who will not go elsewhere without special fees, still this bar cannot be an exclusive one, as the present circuit bars are.

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* Since the above was written, the jury in this case have returned a verdict that Lady Mordaunt was insane on the 30th of April, 1869.

THE BILL which was to be laid on the table of the House of Lords last night, so far as can be gathered from the Lord Chancellor's description of it last week, may be accepted as the first fruits of the labours of the Judicature Commission. Writing as we do, without having seen either the bill itself or the Lord Chancellor's remarks last night, and even in ignorance whether it has been actually produced, we are compelled to rely on this description, which is, we doubt not, substantially accurate.

The principle of the bill may be taken to be the establishment of a central court of appeal from all the superior courts, to consist of five permanent and four moveable judges, and to sit in chambers or divisions of not less than three judges each. This at once supplies the requisite elements for a really strong court of appeal, and if worked so as to utilise to the maximum the judicial strength thus supplied, may go far towards producing that harmony in our laws and uniformity in our decisions of which they are at present so much in need. But to this end it will be requisite:—

1st. That the judges of this Court should sit indiscriminately in its different chambers, and should even make a point of shifting their combinations as much as possible, consistently with the conduct of the business; so that, except where the occurrence of "part heard" cases rendered it necessary, the same three judges should not continue to sit in the same chamber for more than some very limited period, say a week. This provision is obviously necessary to secure general harmony of decision, for if the same three judges habitually sat together, we should soon find that the divergence now experienced in the tendencies of different courts would re-appear as between the different chambers of the Court of Appeal, each of which would become more or less strongly impressed with the character of that one of its members (and there always would be some *one*) who acquired the largest share of influence. Two men may—though they seldom do—continue to sit together without either becoming habitually predominant over the other; but with three this is practically impossible. With more than three, again, the Court may, as we see at this moment in the Court of Exchequer, become broken into two parties, each of which habitually follows its own leader; but it is more frequently the case that one mind becomes the virtual ruler of the whole Court, and this is the very thing we wish to avoid.

2ndly. The "nominated judges" (*i.e.*, those who are to be appointed for a year only, subject to reappointment) ought, as far as practicable, to sit in different chambers, and the rule ought to be, except in very special cases, not to reappoint them without an interval of at least two years. The very object of their appointment at all is to keep up the circulation between the courts of first instance and the Court of Appeal, and to that end there should be one of these judges (who will, we presume, be always selected from the acting judges of first instance, and will return to their functions as such at the end of their year), associated with the permanent judges of the Court at every sitting thereof; and, moreover, such judges should be sufficiently fresh from the performance of their ordinary duties to prevent their assimilation to the permanent staff of the Court.

3rdly. All final appeals from inferior courts should be to this Court, either with or without an intermediate appeal as may be thought desirable. The present system, whereby the same identical question may, at the option of the plaintiff, be brought before a judge of first instance, either in the exercise of his ordinary jurisdiction—in which case his decision is subject to two appeals—or on appeal from an inferior court—in which case it is final*—is a palpable absurdity, and amounts in fact to a denial of justice to the poorer litigant. Had the existing Court of Appeal in Chancery been continued it would, we think, have been necessary to transfer the appeal from the county courts sitting in equity to that Court, and as it is now to be merged in a general court of appeal, that Court should, we think, be given the like jurisdiction; and the same principle evidently applies to appeals from all inferior courts.

There are, moreover, some minor details in the proposed measure, which, we think, call for observation. We fail to see the force of the argument so often advanced for placing the Master of the Rolls *ex officio* in the Court of Appeal,† that the Lords Justices, who of course will be members of that Court, are his inferiors in judicial precedence. This objection was conclusively answered, when advanced by Lord Chancellor Cranworth, by no less an authority than the Master of the Rolls himself, who pointed out the inconvenience of the alteration then proposed, and said that the true course would be, if it was thought worth while, to alter the precedence of the Lords Justices. But in truth, whatever might have been said for Lord Cranworth's proposition, which dealt only with the Court of Chancery, the present bill carries its own answer on its face, for it is not proposed to make the Lord Chief Justice of England an *ex officio* member of the Court of Appeal, nor either of the other Common Law Chiefs, and yet the first-named judge is the judicial superior of the Master of the Rolls himself, and all three of them are as much entitled to precedence over the Lords Justices as is the Master of the Rolls. Nor, so far as we have heard, does the bill propose to give any precedence whatever to the nominated judges *as such* during their year of office. We are sorry also that the niggardly spirit which has lately manifested itself in high places has so far prevailed that the recommendations of the commissioners in favour of ten judges of this court has been negatived. Nine judges, of whom the Lord Chancellor is one, means eight on all ordinary occasions during the Parliamentary session, and eight judges implies but two chambers sitting simultaneously, which again supplies an excuse for closing the doors of the Court against some of those classes of appeals which, as we have already said, we think ought to find their way there. We hope that before the bill becomes law, which we trust it will do without any unnecessary delay, better counsels will so far prevail that this objection may be removed.

THE FOLLOWING CIRCULAR, relating to the stamp duty on marine policies effected abroad, has been forwarded to us for publication:—

"Inland Revenue, Somerset House, W.C.
January, 1870.

Sir,—It having been represented to the Board of Inland Revenue that it is the practice of certain insurance companies to pay claims on policies of marine insurance effected abroad, without requiring such policies to be first duly stamped, the board deem it proper to call the attention of the several marine insurance companies to the law upon the subject.

I am accordingly desired to state that by the 15th section of the 28 & 29 Vict. c. 96, it is enacted 'that the stamp duties chargeable under that or any other Act for the time being in force upon or in respect of any policy of insurance of any description shall extend to and be deemed to be payable upon and in respect of any policy or other instrument of insurance which shall be made or signed out of the United Kingdom, by or on behalf of any person carrying on the business of insurance within the United

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* If our readers wish to see a notable instance of this absurdity—pushed to extreme—they will find it in the bills to protect the property of married women, mentioned elsewhere in our columns. By the 10th section of Bill No. 1 (which is identical with the 12th section of Bill No. 2), any question between husband and wife may *at the option of either party, and irrespective of the amount in dispute* be referred either to Vice-Chancellor Stuart or the county court judge of the district. If the parties apply first to the latter his decision may be appealed to Vice-Chancellor Stuart whose decision is final, but if they have gone at once to the Vice-Chancellor, the dissatisfied party may take the case to the House of Lords.

† Of course no one will so misunderstand us as to suppose we object to the appointment of Lord Romilly individually to that Court.

Kingdom, or by which, according to any stipulation, agreement or undertaking, expressed or implied, any loss or damage or sum of money shall be payable or recoverable in the United Kingdom, upon the happening of any contingency whatever, and no such policy or other instrument of insurance shall be valid or available in the United Kingdom, for any purpose whatever, unless the same shall be duly stamped for denoting the duties.'

I am further to point out that under the 13th section of the Act, 30 Vict. c. 23, persons paying claims on such policies not so stamped, incur a penalty of £100 in every instance.—I am, sir, your obedient servant,

T. SARGENT."

The subject-matter of this circular, which addresses itself alike to lawyers and to the shipping and insurance interests, was a matter of public comment about three years ago.* At that time a correspondent of the *Times* expressed the opinion that, beyond the invalidity of the unstamped policy, the Legislature had not, by the 28 & 29 Vict. c. 96, s. 15, inflicted any *penalty* on default in paying the duty on marine policies effected abroad. The view in question was fortified by an opinion stated to have been delivered by an eminent barrister, to the same effect. In point of fact, however, the 4th section of 7 Vict. c. 21, at that time in force, enacted the opposite, for that section rendered any person paying any such policy, or being concerned in any omission with intent to evade the stamp duty, liable to a penalty of £100. Shortly after the topic was thus before the public, the consolidating or rather condensing Act, 30 & 31 Vict. c. 23, was passed, which, leaving untouched the 15th section of 28 & 29 Vict. c. 96, repealed the 4th section of 7 Vict. c. 21, and re-enacted the substance of the latter section in section 13 of its own. The Stamp Acts relating to marine and other policies are only one instance of the necessity for a thorough revision and consolidation of the stamp laws. That they are such an instance is corroborated, if corroboration were needful, by the fact that even the Government Index, just published by authority (which we notice in another column) has gone wrong on the subject, and omits both 7 Vict. c. 21 and 28 & 29 Vict. c. 96 from the list of enactments in force relating to marine policies.

IT WAS ALLEGED last year during the debates on the "Debtors Act" that registrars of county courts had, without the slightest legal power to do so, committed debtors to prison. No individual registrar was named, but the Government must have had good reason for believing that registrars had so acted, otherwise the prohibition contained in section 5 of the Act would have been unnecessary. It is true, that under the various County Courts Acts, registrars were nowhere prohibited from exercising the power of committal, but they are nowhere authorised to do so. Some registrars appear to be under the impression that they may do whatever they are not in express terms prohibited from doing. As a case in point, we find from a report in the *Clerkenwell News* that on the 15th inst., the registrar of Clerkenwell County Court sat as judge and tried a cause which was strongly contested, notwithstanding that the provisions of the 16th section of the "County Courts Act, 1867," only authorise registrars to decide undefended causes "if founded on contract." Here again there is no express prohibition as to the registrar trying *any* cause, but if the absence of prohibition is to be read as giving authority the registrar may exercise nearly all the powers of the judge

THE PROMISED BILLS to protect the property of married women have made their appearance—two in number. Of that which bears the Recorder's name little need be said; it is little more than a reproduction of the bill brought in by Mr. Shaw Lefevre in 1868, and renewed last session, on which we have already commented at length, and it is open to all the observations, favourable and otherwise, which we made in reference to that bill. The other bill, which is fathered by Mr. Raikes, Mr. Staveley Hill, Q.C., and the Attorney-General of the County Palatine, is a very different production, and one which, though not free from objection, contains, we think, the germ of a sound and useful measure. Its principal fault is one but too prevalent—it is too detailed. Instead of altering the principle of the law, and leaving the Courts to carry the new principles into effect in their own way, it aims too much at providing all the machinery for the purpose, down to the very smallest detail. The necessary consequence is, that the Courts say, "We can do nothing except by the machinery prescribed, and if there be a case which this won't fit, however clearly within the scope of the Act, it is a *casus omissus*, and we can do nothing with it." The particular provisions of this bill moreover do not seem to us well adapted to the end proposed, and in particular we take special objection to the system of heaping all sorts of jurisdiction "in a huddled manner" on those "judicial beasts of burden," the county court judges.

Again, we think the bill goes too far in its application to persons already married, and that, as to them it should at least, be confined to cases of separation, voluntary or judicial. Further, there can be no reason, that we can see, for interfering, in ordinary cases, with the rule which gives all the property of an intestate wife to a surviving husband, at any rate in cases where they are living together. This rule is founded on the natural and reasonable theory that a woman by marriage becomes incorporated into her husband's family; and as, if the power of testacy be freely given, it can never act against the wishes of the wife, we think that the 19th section of the bill should be confined to cases of desertion and judicial separation, and should not take effect unless so declared in the order of the Court.

The bill would, in our opinion, be much improved by leaving out all except sections 1, 10, 11, 13, 17, 19, 22, 23, 24, and 25, and restricting the operation of section 19 as above mentioned.

THE IRISH LAND BILL.

When we contemplate the Merchant Shipping Bill of this session, with its 800 clauses, we can hardly be too thankful that *the* bill of the session, dealing with a most difficult subject, is comprised in some ¼lb. of printed matter, numbering but sixty-eight clauses and a schedule. The Irish Land Bill is now fairly launched, and it is encouraging to see it approached on all sides with a determination to merge party differences in the one aim of doing all that can be done to remedy the evil at which the measure strikes. The Fenian press, and other professional discontents, may be expected to rail; it is their business to be discontented, and they object to express any approval of anything; much as a popular comic actor once objected to make a speech on a public occasion, upon the ground that his livelihood would be in danger if he were suspected of a capacity for talking reasonably.

A stranger to the history of Ireland might ask why Ireland needs a land-law differing from that which works satisfactorily enough in England. Undoubtedly the supporters of this, or any kindred measure, have to show cause against that objection, and, unfortunately, the cause is only too easily shown. It is not necessary to go into historical details, or to discuss how an antagonism between owners and occupiers has been fostered by the course which acquisition of Irish land has followed, from the days of the Adventurers who obtained Crown grants centuries ago, to the modern time of purchasers under the Encumbered Estates Acts. Doubtless the discontent of Irish tenantry is aroused to a considerable extent not only by the fact that strange landlords will not give them security of tenure, but by the fact, for which the murmurers are entitled to less sympathy, that the stranger landlords do expect them to pay their rent punctually. Sir Jonah Barrington, in his most entertaining Memoirs, has shown the manner in

* Vide 11 S. J. 290.

which, under the old regime, all parties muddled on together; the landlords taking the rent from their hangers-on when they could get it, but never dreaming of evicting when they could not—a style of jovial muddle which reads more pleasantly in an Irish novel than as a page in the real history of Ireland. It is needless, however, to discuss these questions; it is enough to recognise the facts that unless tenants enjoy practically some meed of stability of tenure, the land will inevitably be underfarmed and unimproved, and that in Ireland stability of tenure is the exception. In England, with the same law of contract, the tenants either get leases or else the landlords execute the improvements. Even an English yearly tenancy is practically a far more stable tenancy than one in Ireland. The mutual jealousy of owner and occupier in Ireland naturally augments by action and reaction. A disturbing force is necessary to remedy all this, and in settling its nature and application it is wholly unnecessary to speculate as to who, if anyone, is to blame for the evil as it exists.

So far as legislation has meddled with the subject, there has not been anything nearer the mark than the statutes 19 & 20 Vict. c. 65 and 23 & 24 Vict. c. 154. The former merely relates to garden grounds of not more than half an acre and the emblements corresponding, and the latter merely provides a machinery for securing to yearly and other tenants the value of improvements made with the landlord's consent.

As to the remedy to be applied, the insuperable objections to what has been spoken of as fixity, or perpetuity of tenure, were excellently put by Mr. Gladstone in his explanatory speech on the 15th. Even if any rational argument could be assigned for such a proposal, it is obvious that the change would be no more permanent in its effect than a distribution of the entire wealth of a country among its entire population. But such a change would, as Mr. Gladstone pointed out, by reducing the landlord to the position of a mere rent-charger on his own land, extinguish all hope of that good understanding between landlord and tenant which exists in England, and deprive the country of that conscientious acceptance by landlords of a responsibility for public duties which is "a just relic and a true descendant of the feudal system;" it would also virtually proscribe the class who desire to rent but not to own. That the taxpayers of England and Scotland could hardly be expected to pay the Irish landlord's compensation, is the least important consideration.

The main principle of the present measure is the introduction, where no custom exists, of a relation as between owner and occupier, similar to that known as the Ulster tenant right custom. Where the Ulster custom is in force an evicted or retiring tenant receives from his landlord compensation both for improvements (including as well unexhausted manures and tillages as permanent improvements like buildings or reclamation) and the loss sustained through quitting—*i.e.*, goodwill. Where this custom exists, the bill, by section 1, formally legalises it, and then leaves it alone. Section 2 provides that where a custom other than the Ulster custom prevails, the tenant shall be entitled to such compensation as the particular usage allows. Section 3 provides for the mass of holdings which are not protected by any custom. As to all holdings not subject to the Ulster custom, the bill puts compensation for improvements and compensation for goodwill on separate footings. The tenant gets the latter only where "disturbed by the act of the landlord," and not where evicted for non-payment of rent, and the new right differs from the Ulster custom in this respect, that a voluntarily retiring tenant gets nothing for goodwill;* but even the tenant who is evicted for non-payment of rent gets his improvement compensation, subject to proper deductions. As to the mass of unprotected holdings coming under section 3, a scale is provided, under which, for all compensation other than for permanent improvements, the tenant of a holding under £10 yearly rent may be awarded seven years' rent or under, between £10 and £50, five years' rent or under, between £50 and £100, three years' rent or under, and over £100 two years' rent or under. The claim for permanent improvement is extra to this. Both when compensation is claimed under some custom outside Ulster and where claimed purely under the bill, allowance is to be made for arrears of rent, or injury to the land accrued through non-observance of an express or implied contract with the landlord; and a tenant with a thirty-one years' lease made after the Act can claim nothing for goodwill.

The improvements for which a tenant is to claim are "improvements adding to the lettable values of the land:" and made by "the tenant or his predecessors in title," that is, the tenant can only claim for improvements executed by a preceding tenant, when "money or money's worth" was paid to that tenant by his successor, and so on in continuance up to and including the incoming of the claimant. But a tenant who after the Act sublets without his landlord's consent (except for labourers' gardens), may claim no compensation whatever for goodwill. *

A tenant is not allowed to contract himself out of the Act,—except that, where his holding is between £50 and £100 yearly value, he may contract himself out of all rights, except for tillage or manure, by accepting a twenty-one years' lease, to be approved by the new tribunal; and that where his holding is over £100 yearly value, he may contract without restriction. The *ratio* of this scale is the fact that in large holdings the practice as between owner and occupier is found to be more akin to that in England. And the tenant cannot, of course, claim for improvements which the landlord has agreed to execute, unless there be unreasonable delay on the landlord's part.

Then the Bill also endeavours to facilitate purchases of land by tenants, by authorising the Irish Commissioners of Public Works, where a landlord consents to sell, to advance three-fourths of the valuation price, repayable by a twenty-two years' annuity, charged as Government drainage advances are now charged in England. The commissioners may also make advances to landlords, either for improvements or for compensation payable under the Act to tenants.

Lastly the bill provides a machinery for carrying out all this. It appoints a tribunal which is to assess everything and determine everything, and by means of a clause which Mr. Gladstone called the "equity clause," it invests this tribunal with the widest possible discretion in determining everything under the Act. Thus there is an absolute discretion to say whether or not a particular eviction for non-payment of rent is or is not to be deemed a "disturbance of the tenant by the landlord." The Court may consider whether the rent payable is fixed too high or too low, and may take the difference, if any, into account. It has an absolute discretion to decide what is and what is not an "improvement, adding to the lettable value of the land"—and what is and what is not a reasonable time for the landlord to perform any contract on his part. It is necessary to the success of the scheme that the machinery should work cheaply, which could only be effected by conferring a wide discretionary power like this.

The tribunal endowed with this discretion consists, in the choice of the parties, either of the Civil

* As the bill stands, a retiring tenant, or one evicted for non-payment of rent, is entitled to claim for unexhausted tillages or manures.

* We have here given a short analysis of the substance of several sections. In the arrangement of sections all claim whatever is taken from the rent-defaulter and sub-letter, by sub-clauses to sections 2 and 3, and section 4 afterwards restores to them a claim for improvements. *Quære*, however, whether these defaulters should be entitled to claim for anything but permanent improvements?

Bill court of the district, or the assessor sitting as an Arbitration Court. The decision of the latter is final, but the decision of the former may be reviewed by the common law judges, who, if they please, may reserve points for a "Court for Land Cases Reserved."

Finally, the bill throws on the landlord the burden of proving that improvements were not made by the tenant (it is silent as to the proof that an alleged improvement is a real one, the proof of that remains consequently with the party alleging it). The bill also, besides imposing a stamp duty of 2s. 6d. on notices to quit, requires that each notice shall be for twelve months, reckoned from the last gale day of the current year.

Omitting, of course, a quantity of details, we have now gone through the main features of the bill. We should, perhaps, apologise for thus recapitulating what, in popular phrase, is in everybody's mouth. Our aim has been to assist those of our readers who have not leisure or inclination to study closely the Bill itself.

The scheme is conceived, not, as a sop to Cerberus, conceding a percentage on a clamorous demand, but as an honest endeavour to suggest the true remedy for an admitted evil. It seems to us that its framers have hit the only means of untying the knot, and that the plan in its main characteristics is admirable. No doubt, in its details, the bill will require much amendment. It is, of course, impossible for us here to indicate every point upon which we think that it should be altered, but we shall in future issues draw attention to various details. We will at present only trouble the reader with a very few more observations.

It appears that in various cases Ulster landlords have, as it were, enfranchised their land by purchasing the custom of the tenant, and when that has been done, the land by the second half of section 1 ceases to be subject to the Ulster custom. Consequently under section 3 the tenant who has just sold his right to compensation can claim it afresh under section 4 as "a tenant not entitled to compensation under sections 1 and 2 . . . and not entitled . . . under section 3 of this Act." Is it intended that this shall be so? A case of hardship somewhat similar to that of these landlords, who have just purchased the Ulster custom, will be that of those landlords who have purchased of the Landed Estates Court, and who will naturally complain loudly if to the purchase-money they have just paid should be added a liability to pay over again for a portion of that they saw on the ground when they purchased. It may be that in order to carry into effect so great a remedy, a partial hardship, not to say injustice, is necessary. It must however, be reduced to a minimum. We must confess that the point on which we have most misgivings is as to the costs of the proceedings before the land tribunal between landlord and tenant; for the Irish, like the Welsh, are prone to rush into litigation, though less perseveringly litigious. Much, very much indeed, will depend on the Court. It must manage to command full confidence, and it must manage somehow or other to supply "substantial justice" quick, cheap, and good. Sooth to say, the Irish lawyers make better advocates than judges. They are beset even when on the bench by a national tendency to burst away into brilliant but irrelevant oratory. Still the national shrewdness may pilot the way to the substantial justice aforesaid and prove a hundred times more valuable than the closest reasoning on a point of law. Much also must depend upon the spirit in which the suitors and their agents approach these questions as to compensation and "good will" (and as the shoemaker turned farmer observed in Hood's story, "candour compels to state a very small quantity of the *last* named article on hand up to the present time"). We believe that in its principle the present bill has hit, if anything can hit, the remedy. There remains the task of settling its details. If this be successfully accomplished a happier time may come, when, the change having done its work, it may be found possible once more to place English and Irish land under the same law of contract.

CLERGY IN PARLIAMENT.

Mr. Hibbert, the member for Oldham, has introduced a bill to relieve clergymen of the Church of England from the incapacity of sitting in Parliament under which they at present labour; and undoubtedly, as matters now stand, there is an appearance of hardship which justifies an attempt at legislation. The measure proposed, moreover, must not be supposed to attack what many regard as the sacred principle of indelibility of orders. A clerical M.P. would be a clergyman still, although it might be expedient to restrain him for parochial duty as long as he chose to mingle in political conflict. The question of the political disabilities of the clergy is quite distinct from the question of whether or not their religious *status* ought to be temporary or perpetual. We do not at present propose to discuss the expediency of the alteration in the law advocated by Mr. Hibbert; but our readers will be better able to form a sound judgment on his bill if we recall to their recollection the historical incidents of the present law of exclusion.

The statute which at present disqualifies the clergy is the 41 Geo. 3, c. 63, which is entitled "An Act to remove doubts respecting the eligibility of persons in holy orders to sit in the House of Commons," and professes to be a "declaratory" Act. By section 1 it enacts that "no person having been ordained to the office of priest or deacon, or being a minister of the church of Scotland, is or shall be capable of being elected to serve in Parliament as a member of the House of Commons." The second section declares and enacts that the election of such a person shall be void; and that if, after election, a Member of Parliament should be ordained priest or deacon, or become a minister of the Church of Scotland, he shall thereby vacate his seat, and a penalty is imposed upon sitting or voting in either case. Section 3 provides that penalties must be sued for within twelve months of their being incurred; and the last section (section 4) makes proof of the celebration of divine service according to the rites of the Church of England or the Church of Scotland, in any church or chapel consecrated or set apart for public worship, *primâ facie* evidence of the fact of the celebrant being a priest, deacon, or minister, within the meaning of the Act.

The reason why this statute was passed was the circumstance that the celebrated Horne Tooke, who was in priest's orders, had previously to the meeting of Parliament in 1801 accepted from Lord Camelford a seat for the nomination borough of Old Sarum. Upon his appearing and taking the oaths, Earl Temple called attention to the fact that he was "in priest's orders, and had been inducted into a living;" and gave notice that if no petition were presented against the return he should move that "the return for Old Sarum be taken into consideration." There can be little doubt that Tooke's turbulent character and, as they were then considered, almost revolutionary opinions on the subject of Parliamentary reform were the real causes of the return being questioned. At the time of his election he was not engaged in any parochial duty, so that no practical inconvenience would have followed from allowing him to take his seat *sub silentio*. As far back as 1773 he had formally resigned his living and announced his absolute abandonment of his clerical character. But he was destined to find that such an announcement did not avail to open to him either a legal or a Parliamentary career. In 1777 he suffered his first severe disappointment in the refusal of the Inner Temple to admit him to the bar on account of his being in orders. We need scarcely add that that learned society would not for that reason refuse a candidate for admission now. The bar at present counts among its members several clergymen of the Church of England, of whom one at least is a member of the Inner Temple.

Tooke, baffled in his hopes of becoming a barrister, occupied himself almost exclusively with politics, and determined, if he could, to get into Parliament. In 1790

he stood against Fox and Lord Hood for Westminster, but was defeated. He again became a candidate in 1796 but with no better success, although his popularity with a Radical constituency must have been increased by his having been two years before put upon his trial for high treason in advocating reforms which the Solicitor-General (Mitford) in opening the prosecution averred were nothing but "rank rebellion" (Howell's State Trials, vol. 25, p. 62). After a protracted inquiry he was acquitted, and left the court with a characteristic word of advice to the Attorney-General (Scott) to be more cautious for the future. But even this audacity and success did not win over the Westminster electors, and for five years longer Tooke remained without a seat. Eventually advanced reformer as he was, he accepted, as we have seen, Lord Camelford's nomination to Old Sarum.

The petition which Lord Temple seemed to think possible was not presented for the best of reasons, that there was literally nobody to present it, and accordingly he brought on his motion on Friday, the 6th March. Evidence was heard on the 10th to prove that Tooke was really a priest, the House declining to act upon his own admission, and a committee to search for precedents was appointed. The report was, we are told by Mr. May, obscure and inconclusive, and the House declined to declare Tooke ineligible. The fact was that the precedents were found to be contradictory. Thus, in 1785 a petition was presented complaining of the election of Edward Rushworth, clerk, for Newport, "he being a clerk in holy orders and incapable to be elected to serve in Parliament," and was referred to a committee who found that "Edward Rushworth, Esq., was duly elected." Rushworth appears, from the report of the case in 2 Luders, 269, to have been a deacon only; and it was argued that, even assuming a priest to be eligible, it did not follow that a deacon was. The reason of the exclusion of the clergy given by Coke and Blackstone—the possibility of being elected members of convocation—was certainly inapplicable, it was said, to mere deacons, who did not and could not sit there. (See Co. 4 Inst. 47.)

The Committee gave no reasons for their decision. It may very possibly therefore have turned on the supposed difference between a deacon and priest, which afforded them some justification for departing from the precedents in the cases of Nowell (1553), Robson (1620), and Craddock (1661). The language of the reports in these three cases is worth notice. In the first the committee give Coke and Blackstone's reason for their decision, reporting that Nowell being a prebendary of Westminster, *and thereby having a voice in the Convocation house*, cannot be a member of this house. In the second the resolution was as follows; "that he (Robson) ought not to be accepted to serve as a member of this house, by reason that he is a minister, and so hath or may have a voice in the convocation," still adopting the view that membership, actual or possible, of convocation is the proper test. In Craddock's case the report is simply that it appeared to the Committee that he was in "holy orders," and therefore ineligible—a general sort of phraseology which might include all ordained persons, without regard to their privilege of being represented or sitting in convocation. And, in truth, the "convocation" argument is not a good one, for as Mr. Justice Christian points out in his edition of Blackstone (vol. i. p. 175), the same reasoning would apply to the exclusion of bishops from the House of Lords. There are also some instances in early times of clergy in priests' orders sitting in the Commons, although then they were permitted to tax themselves in Convocation. The real ground of their not having, as a rule, ever been elected was, in the opinion of the learned editor, "owing solely to the tenure of their glebe lands, viz., frankalmoign, which exempted them from attendance on the courts of the king, lords, and sheriffs; and even if they held other lands, 'holy orders' exempted them by the common law from secular services and temporal offices, and this was confirmed by Magna Charta and the statute of Marlbridge." But this was an *exemption*, and not an *exclusion*. What are now precious privileges were once, it must be recollected, regarded as burthensome duties, and clergy not unnaturally availed themselves of their exemption, until disuser became regarded as proof of incapacity. The conclusion to which Mr. Justice Christian arrives is that there is no rule of common law which excludes either priests or deacons. The committee in the Newport case would seem, therefore, to have properly neglected the precedents adduced in support of the contrary view, and the House to have been right in declining to resolve that Tooke was ineligible. But the Ministry of the day were determined to get rid of him as soon as they could, and with that object in May, 1801, the statute (41 Geo. 3, c. 63) was passed. It was not retrospective, and Tooke retained his seat until the next dissolution. Whether it really was declaratory or not remains a vexed question; but we think it may be safely said that the better opinion is that it was not. Mr. Hibbert's bill should accordingly be regarded as re-establishing old law than as introducing new.

It may be well to point out that if the English clergy are to be relieved from disability, the Romish clergy may, upon the popular principles of "equality" claim to be relieved also. The 10 Geo. 4, c. 7, s. 9, excludes the Roman Catholic clergy from the general benefits of Catholic emancipation. Would not the repeal of the 41 Geo. 3, c. 63, entail that of the 9th section of 10 Geo. 4, c. 7? If such a liberty of candidature is permitted we may soon see some of the more popular Irish priests at Westminster. And we are far from saying that such a result ought to be deprecated. It may be better that an Irish elector should vote, if he pleases, for his priest rather than at his priests bidding for some obedient nominee of the clerical party. In the approaching debates upon Irish education an educated and intelligent Irish ecclesiastic might be a valuable acquisition to the House of Commons.

RECENT DECISIONS.

COMMON LAW.

PLEADING—NEW ASSIGNMENT—TRESPASS TO LAND.

Huddart v. *Rigby*, Ex. Ch., 18 W. R. 213.

The system of common law pleading has been so much simplified by the three Common Law Procedure Acts that questions of mere pleading are now seldom argued before the courts in banc. In *Huddart* v. *Rigby*, however, a question of this sort came before the Exchequer Chamber, and the decision is of considerable importance with respect to the necessity of new assigning in actions for trespass to land. The declaration was in the ordinary form, that the defendant broke and entered the plaintiff's close, and broke down and damaged gates, fences, &c. The pleas were not guilty, and a justification on the ground that there was a footpath across the land, and that the alleged trespasses were committed in order to use the path. Issue was joined on these pleas, but the plaintiff did not new assign. At the trial the plaintiff admitted the right of way alleged in the plea, but offered to prove that the defendant had trespassed beyond the footpath, that there were no gates, &c., on the path, and that the defendant had destroyed the gates, &c., on another part of the land. The evidence was rejected, and a verdict was entered for the defendant.

The ordinary course for a plaintiff in a case like this is not only to join issue on the pleas, but also to new assign—that is, to reply that he sues not only for the trespasses justified by the defendant's plea, but also for others committed at other times and occasions, and on other parts of the land. Such pleading would have precisely met the difficulty in this case, but the question was whether, in the absence of a new

assignment, the evidence tendered by the plaintiff ought to have been received.

The substantial point was whether a declaration like the one in this case is to be taken as alleging only one trespass, or two distinct and substantive trespasses. If it is to be construed as alleging only one trespass it was pretty clear that the plaintiff's contention was wrong, because the defendant's plea answered one trespass by setting up a right of way, and the plaintiff admitted the existence of the right of way. By joining issue the plaintiff had admitted that the trespass so justified was the trespass complained of, and without a new assignment he could not at the trial say that he was really suing for some other trespass not touched by the plea. If, however, the declaration alleged two substantive trespasses a different question would arise. At the trial the plaintiff would be entitled to prove both or either of the trespasses. Although the plea in form covered both trespasses, yet the evidence might support the plea only as to one, and if so evidence for that purpose ought to have been admitted.

The common form of a declaration for trespass to land generally contains, after the allegation of the breaking and entering, a statement of acts by the defendant which, if they stood alone, would amount to substantive trespasses, as, in this case, the breaking of gates, &c. The question therefore was, whether such statements in a declaration of trespass are to be taken as allegations of substantive trespasses, and if so the declaration would contain two distinct causes of action; or whether such acts are to be looked on as mere averments of damage consequent on the one trespass in breaking and entering the plaintiff's close. It was held "that the breaking down of the gates and fences was mere aggravation," and that there was therefore but one cause of action alleged in the declaration, the breaking and entering which was answered by the plea, and as the facts stated in the plea were admitted, the defendant was entitled to a verdict.

This case will in future be a most useful authority in deciding where it is necessary to new assign in actions of trespass. Such questions are not at present of as much importance as they used to be, but even now the pleadings in an action frequently affect very seriously the right to costs, and sometimes, as in this case, even the final result of the action.

REVIEWS.

Chronological Table and Index to the Statutes to the End of the Session of 1869. By AUTHORITY. London: Printed by George William Eyre and William Spottiswoode, Printers to the Queen's Most Excellent Majesty. 1870.

The nature of this work will be best explained by the following extract from the preface :—

"This volume contains two works which, though separate, are arranged for combined use.

"The first is a table of all the statutes, arranged in order of date.

"The second is an index to enactments in force.

"The chronological table is framed with these objects:—

"(1.) To show what Acts are not in force, and how the same have ceased to be in force (by express repeal or otherwise) :

"(2.) With respect to Acts wholly or partly in force to give the respective heads in the index under which the enactments in force (with other enactments on the same subject) will be found :

"(3.) With respect to Acts partly in force to give any express partial repeals thereof (but not to give other operations on Acts wholly or partly in force,—as amendments, extensions, or perpetuations,—these being traceable by the index).

"The index is framed with the object of indicating generally the subject-matter of enactments in force, not of giving a detailed analysis of each Act.

"It is intended not to furnish an exhaustive summary of the statute law under each head, but to serve as a guide to a person desiring to find out the enactments bearing on a given subject.

"For example, the entries under the head *Forgery* are not a summary of all Acts relating forgery, and a person wanting to know what are the Acts relating to forgery of the seal of a particular court, or of a particular species of document, must look to the head under which that court or species of document is indexed, not to the head *Forgery*. So again in the case of Justices of the Peace, the enactments relative to their duties will be found distributed under the heads relating to particular subjects, and not collected under the general head of *Justice of the Peace*."

The chronological table is printed in triple column, the first column giving the year, statute and chapter, the second the subject-matter, and the third stating how the Act has been repealed or otherwise determined wholly or in part. This table extends from 20 Hen. 3, to the end of last session, and this alone would be an extremely useful publication.

The index is in four parts, one embracing Acts which extend only to England, and the other three the Irish, Scotch and Colonial Acts respectively. English Acts which also extend to Ireland, Scotland or the Colonies, are distinguished by the letter I., S. or C. as the case may be. In supplying these latter references the framers have in one or two instances had to assign a conjectural limit to the Act. Thus, under the head of *Reversion*, the Sales of Reversions Act (31 & 32 Vict. c. 4), is indexed as I. ? S., the framers not venturing to pronounce upon the question *ex cathedrâ*. Remembering the discussion which took place shortly after the passing of the Act 30 & 31 Vict. c. 144 (enabling assignees of life policies to sue in their own names) as to whether or not the Act extended to Scotland, we turned to the heading *Insurance—Life* with some curiosity to see how the framers treated the question, and found that they had assumed the Act as extending to Scotland, a conclusion to which we ourselves inclined (12 S. J. 355); the question, however, was certainly a doubtful one.

The true test of the method upon which an index has been compiled, and the manner in which that method has been carried into execution, is the employment of the index in practice. If, on use of the index, the respective subject matters appear to be arranged in the places where one would reasonably expect to find them, the index may be pronounced good. It must necessarily be hard to make an index like the present, good, according to such a definition, and yet keep it manageable in point of size. If we were to venture a suggestion, we should be inclined to say that the principal headings—such as *Executor*, and so forth—might have advantageously had a rather wider scope assigned to them, so as to diminish cross-reference. But, without further practice in handling the digest, we are not prepared to assert this. We may at least pronounce that the digest is very fairly manageable, and are not sure that it *could* have been made more than that. Anyone searching for some enactment of which he has some previous notion will be able to find it with tolerable readiness; if his search is purely speculative, the cross-references are, we think, sufficiently exhaustive for the searcher's protection. And it must be remembered that *no* index could be constructed which should enable persons unlearned in the law to refer to every enactment now in force as easily as they can take down a volume from a shelf. The table and index now issued by her Majesty's Government will be found a boon, and practice will render it easier to handle.

COURTS.

COURTS OF BANKRUPTCY.

LINCOLN'S-INN FIELDS.

(Before the CHIEF JUDGE.)

Feb. 24.—*Re Arnold.*

Petition under 126th section Bankruptcy Act, 1869—*Appointment of receiver—Injunction—Form of affidavit.*

Mr. J. Seymour Salaman, solicitor, applied, pursuant to notices of motion, to restrain certain creditors from proceeding with their actions and executions against the debtor.

It appeared that the debtor had filed a petition for composition with creditors under the 126th section of the Bankruptcy Act, 1869. A receiver had been appointed by the Court, and possession had been taken of the property. In

support of the application (which was made on behalf of the debtor) it was contended that although the appointment of a receiver sufficiently protected the property, it afforded no protection to the debtor, who might be summoned under the Debtors Act at the very moment that he was preparing his accounts for presentation at the first meeting of creditors.

Upon the affidavit in support of the application being read, the Chief Judge pointed out a defect—the amounts due upon the judgments or claimed in the actions not being stated,—and his Lordship said it would be convenient that these particulars should be set out.

Some of the plaintiffs in the actions appeared, but no objection being made,

The Chief Judge granted orders restraining further proceedings.

In re Burnett.

Rule 260—*Application to restrain proceedings—Receiver.*

This was an application to restrain a creditor from proceeding on a debtor's summons which had been issued with a view to bankruptcy. A petition for liquidation by arrangement or composition had been filed on the 8th inst., and the Court had appointed a receiver. The ground of the application was that bankruptcy would be prejudicial to the recovery of the estate, which consisted of a number of small debts which the debtor only could collect. The debtor alleged that he owed a sum of £1,188, of which the creditor issuing the summons swore that £549 was due to him.

Mr. W. Haigh, jun. (solicitor), supported the application.

Reed, for the creditor, opposed it, and, referring to division 2 of the 125th section, and the 6th, 7th, and 8th divisions of the 16th section, contended that, in order to carry a valid resolution, three-fourths of the creditors must assent to it. In this case the respondent was, to the knowledge of the debtor, antagonistic to any arrangement, and, as it was impossible to obtain the necessary majority without his aid, it was submitted that the filing the petition was, under the circumstances, a mere waste of funds, and that the proceedings in bankruptcy ought to continue.

The Chief Judge said that as he understood the statute the debtor had a right to file a petition, and at the first meeting the creditors had the right to decide what should be done. His Lordship thought the proceedings on the summons should be stayed until after the day appointed for the first meeting, and, if the meeting failed, the creditors had power to file a petition for adjudication which would be irresistible under the circumstances. It became, therefore, a question of a few days only, and how could he deprive the debtor and the creditors who were assenting, if there were such, of the statutory power which was conferred upon them? Everything would be done to protect the property in the meantime. The receiver was the receiver not only of the debts but of the whole of the property of the debtor, and no part of his estate could be dissipated or perverted in the interval.

Solicitor for the creditor, *Bennett.*

Re Burnett.

Duties of receiver.

This was an application of a similar nature, and the same creditor opposed.

Mr. W. Haigh, jun, solicitor for the application.

Reed, for the creditors.

The Chief Judge ordered a stay of proceedings until after the first meeting, intimating that the receiver was an officer of the court, and amenable to the Court. He was bound to bring in his accounts, and to pay over any balance that might be due from him. His Lordship said the protection thus afforded was effectual. He hoped it would be so, and it was his intention that it should be effectual.

Solicitor for the creditor, *Bennett.*

APPOINTMENTS.

Mr. Joseph Trounsell Gilbert, barrister-at-law, has been gazetted as Attorney-General of the colony of British Guiana, in succession to the Hon. John Lucie Smith, C.M.G., who was recently appointed Chief Justice of Jamaica. Mr. Gilbert was called to the bar at Lincoln's-inn in November, 1842, and was Solicitor-General of British Guiana from 1856 to 1863, when he resigned, but continued to practise at the colonial bar.

Mr. Julian E. Salomons, barrister-at-law, has been appointed Solicitor-General of the colony of New South Wales. Mr. Salomons was called to the bar at Gray's-inn in January, 1861, and has latterly practised at the Sydney bar.

Mr. J. Coke Fowler, stipendiary magistrate of Merthyr and Aberdare, has been appointed Deputy Chairman of the Glamorganshire Quarter Sessions. Mr. Fowler was called to the bar at the Inner Temple in January, 1840.

Mr. Augustus Keppel Stephenson, Assistant Solicitor of the Treasury, has been appointed temporarily to perform the duties of Registrar of Friendly Societies (which office was rendered vacant by the death of Mr. J. Tidd Pratt), pending the decision of Parliament upon the measure which has been introduced by the Chancellor of the Exchequer affecting the office. Mr. Stephenson was called to the bar at Lincoln's-inn in January, 1852, and was formerly a member of the Norfolk Circuit; he was Recorder of Bedford previous to being appointed Assistant Solicitor to the Treasury, in succession to Mr. J. Greenwood, Q.C., who became Solicitor on the death of Mr. H. R. Reynolds.

Mr. John William Sangster, solicitor, of Leeds, has been appointed Registrar of the Pontefract County Court, in the place of Mr. Henry John Coleman, resigned. Mr. Sangster was certificated in Hilary Term, 1857, and is a member of the legal firm of Marshall & Sangster, of Leeds. He is also a member of the Metropolitan and Provincial Law Association.

Mr. Joseph Thomas Collin, solicitor, of Saffron Walden, Essex, has been appointed Under-sheriff for the counties of Cambridge and Huntingdon during the present year; but the business of the shrievalty will be transacted at the office of Messrs. Wilkinson, Butler, & Wilkinson, of St. Neots, Huntingdonshire, the Deputy Under-sheriffs. Mr. Collin was certificated in Easter Term, 1831, and is registrar of the county court, clerk to the magistrates, and clerk to the Commissioners of Taxes for Saffron Walden and Linton.

Mr. Robert Bristow Berridge, solicitor, of Leicester, has been appointed Under-sheriff of the county for the current year. Mr. Berridge, who was certificated in Easter Term, 1853, is the senior partner in the local firm of Berridge & Morris.

Mr. Montague Grover, solicitor, of Cardiff, has been appointed Under-sheriff of Glamorganshire for the present year. Mr. Grover, who holds the office of Town Clerk of Cardiff, was certificated in Michaelmas Term, 1837, and is the senior partner in the local firm of Grover & Davis.

Mr. Frederick Scudamore, solicitor, of Maidstone, has been appointed Under-sheriff of the county of Kent, for the present year. Mr. Scudamore was certificated in Easter Term, 1840, and is a member of the local firm of Scudamore & Brennan; he is also registrar of the Maidstone County Court, and Clerk of the Peace for that district.

Mr. William Slocombe, solicitor, of Reading, has been nominated by Mr. William Weedon, the newly-appointed Coroner for the Eastern Division of the county of Berks, to be his Deputy Coroner, and the appointment has been duly confirmed by the Lord Chancellor.

Mr. Matthew Alexander Fitter, solicitor, of 5, Bennett's-hill, Birmingham, has been appointed a Commissioner for taking affidavits in the Courts of Common Pleas and Chancery of the County Palatine of Lancaster.

Mr. Rowland Taylor, solicitor, of Bolton-le-Moors, Lancashire, has been appointed a Commissioner to administer oaths in Chancery.

A Happy Quotation.—In a recent action in the Supreme Court, brought by a purchaser against the vendors, to recover damages for the non-fulfilment of an executory contract of sale, the defendants claimed an exemption from liability, on the ground that the subject of sale, a quantity of cotton, had been accidentally destroyed by fire, which, their counsel insisted, was an "act of God," rendering performance impossible. To this the plaintiff's counsel replied: "There seems to be an inclination, sometimes, among jurists, to attribute to the Almighty what cannot be distinctly charged upon any one else. It would be better for them to follow the advice which *Horace* gives to dramatic authors, not to introduce a God upon the stage, except in a crisis worthy of such an awful intervention. *Nec deus intersit, nisi dignus vindice nodus Inciderit.*"—*Albany Law Journal.*

GENERAL CORRESPONDENCE.

The Practice of the County Courts.

Sir,—The next two questions of the Judicature Commissioners relate to a matter of very grave importance, and I am extremely anxious to draw especial attention to the details on the subject which I have collected in this letter. They ask:—"20. Ought the process of the court to be served exclusively by the officers of the court, or by the suitors, or their attorneys, or persons employed by them? 21. Have the provisions of the County Court Amendment Act, 1867, s. 2, as to service by the parties, operated beneficially or otherwise?"

To understand these questions properly it must be borne in mind that, prior to the year 1867, the county court process was exclusively served by the bailiffs of the courts, and—subject to two exceptions—judgment by default, as understood in the superior courts, was not recognised. One of the exceptions in question was introduced into the Act of 1856, and in substance it provides, that in any action for a debt exceeding £20 the plaintiff may issue a summons in a peculiar form, requiring the defendant to give notice of intention to defend, on pain of judgment by default. This summons must be personally served on the defendant, but, like other summonses, it is entrusted to the bailiff for service (19 & 20 Vict. c. 108, ss. 28, 29). The other exception relates to bills of exchange for sums varying from £10 to £50, actions on which may be followed up by judgments by default, provided the summonses have been personally served by the bailiff, and no leave to defend has been given (18 & 19 Vict. c. 67, and Orders in Council, Jan. 30, 1856, and July 27, 1863). In 1867 the concurrent jurisdiction of the superior courts, where the debtor lived more than twenty miles from the creditor, was, for all practical purposes, taken away in actions of contract for sums not exceeding £20, and this salutary change in the law was thought to afford a good opportunity for extending the very limited powers which the County Courts had hitherto exercised in granting judgments by default. Such an extension was considered particularly necessary with respect to transactions between wholesale and retail dealers, and section 2 of the Act 30 & 31 Vict. c. 142, was drawn with the view of carrying out the alteration proposed. Instead, however, of simply applying the judgment-by-default clause of the Act of 1856 to all actions brought for the price of goods which had been sold to defendants "to be dealt with in the way of trade," a special provision was framed to the effect that the summons which, under the new law, would justify the entering up of judgment by default, should be personally served on defendant by the bailiff, "or, at the option of the plaintiff, by the plaintiff, his attorney, or by some clerk or servant in the permanent employ of the plaintiff or his attorney."

Now, had the change in the law stopped here I should have strongly objected to it on two grounds. First, because I think that any system of judgment by default, when the debt is less than £5, is liable to serious abuse, from the want of education which too generally prevails among persons who submit to be sued for very small amounts, and who would not be likely to notice the distinction between a judgment-by-default summons and an ordinary summons; and next, because the county courts, at a very large expense, keep up a machinery for serving process which is amply sufficient, and admirably adapted, for that purpose. It is absurd, therefore, to entrust to private persons a duty which can be better performed by efficient officers, and it is obviously unwise to allow plaintiffs to serve process on defendants, for such a practice not only enables an overbearing creditor to insult his debtor grossly, but it sorely tempts a choleric defendant to commit a breach of the peace. Again, the plaintiff's clerk or servant should certainly not be permitted to serve the summons; for as the Court has no means of knowing what reliance should be placed on his testimony, it ought not to be called on to sign judgment on his mere affidavit of service; and the employment of an attorney for such a purpose is simply an idle contrivance for creating needless costs, whoever has to pay for them. If it be urged that, as a creditor is generally acquainted with his debtor's appearance and habits and haunts, he can find him and identify him more readily than a stranger can; the short answer is, that he is always at liberty to make an appointment with the officer, and to accompany him when he is going to serve the process. His presence may, in this manner, be occasionally of use, while the presence of the officer will have the desirable effect of checking any unseemly altercation between the parties.

But, after all, the objections to the new system of judgment by default rest princi pally on what I am now going to mention. I allude to the large and unjustifiable increase in the costs which has resulted from the change. How or why the costs have increased, I will not stop to inquire, but certainly for some inscrutable reason those who stand behind the Lord Chancellor and the Treasury have thought fit to advise, that all parties concerned in working out section 2 of the Act—plaintiffs, attorneys, registrars and bailiffs—should each and all derive some substantial benefit from it, the unfortunate defendants being required to bear the whole additional expense. Whenever a claim under section 2 exceeds 40s., the following fees, in addition to the ten per cent. payable on an admitted debt, may be demanded:—By the plaintiff and his attorney, for affidavit of debt, 5s.; for service of summons, 5s.; for mileage beyond two miles, from 6d. to 4s.; say, on an average, 1s.; for affidavit of service, &c., 6s. 8d. By the registrar for filing affidavit of debt, 1s.; for entering up judgment, 4s. By high bailiff, where the service is left to him, for service and affidavit, 2s.

To comprehend thoroughly the effect of these fees, let us suppose that a poor retail dealer owes his creditor a sum of £3. If sued under the old law he admits the claim, and judgment is given against him for £3 7s. Under the new law if the process be served by the plaintiff or his attorney, and the defendant live four miles off, judgment will be entered up for £4 8s. 8d., and if the bailiff serve the summons, the judgment will be for £3 19s. In other words, the fees in the one case, instead of being merely *ten* per cent., will be little short of *fifty* per cent., while in the other case they will amount to *thirty* per cent.

It is not, however, by taking an isolated case that the operation of these atrocious taxes can be fully realised. I will therefore further illustrate the matter by pointing out what, in the aggregate, has been their effect in a single court in the course of a single year. For this purpose I will select a metropolitan court, where the plaints entered in 1869 did not exceed 15,000, and where I know on the best authority, that nearly 1,000 summonses were issued under the 2nd section, and that more than 270 of these were served by the parties. I am not informed as to how many judgments by default were actually entered up, but I presume I am safe in fixing their number at about one fourth of the whole, or, say, 250. Taking, then, these figures, and referring to the fees as stated above, any one who likes to go through the calculation will find, that, during the year, the plaintiffs must have realised for their costs about £200, the registrar about £100, and the high bailiff from £60 to £70, making a total of about £360, which, in addition to the regular fees, must have been charged to the wretched defendants. I have reason to believe that in many of the courts the summonses issued under section 2 are not nearly so numerous *at present* as they are in the court in question, but probably this variance arises from the fact that the Rules and Orders are better understood in some courts than in others, and that registrars and bailiffs are not uniformly alive to their own interest. Still, should these taxes unhappily remain in force, I feel very sure that in the course of a short time the figures I have just given will become a

fair sample of what may be found in any county court, and then, if we remember that 15,000 plaints are about one-sixty-fifth part of the whole number yearly issued, it follows as a simple arithmetical calculation that, so soon as a knowledge of the law has become generally diffused, the poorer class of tradesmen will be annually mulcted in *extra* costs to the extent of at least £23,000. Wincing under the operation of such taxes as these, well may they seek to derive comfort in exclaiming, "Woe unto you, ye lawyers, for ye lade men with burdens *grievous to be borne*."

A METROPOLITAN COUNTY COURT JUDGE.

STAMPS ON BUILDING LEASES.

Sir,—It appears to me that the question whether a covenant to build, repair, or improve is or is not a "further or other *valuable* consideration" is not a question of law, but of fact to be arrived at, not by considering what may or may not become the value of the property during the continuance or at the expiration of the lease, but what is the *market value* of the lessor's interest in the property upon the lease being granted.

If a person demises a house in a bad state of repair for nine years at a low rent, but with a covenant by the lessee to put and leave the premises in repair, it may be contended that such covenant is a "further or other *valuable* consideration," inasmuch as the property would immediately be worth more in the market than the value represented by the rent.

But in the case of a lease for ninety-nine years the value of the property has reference to the rent reserved and secured by the buildings built or agreed to be built, and the market value of the reversion is not increased by reason of the erections until some thirty or forty years are left unexpired; so that for the first sixty or seventy years the buildings are of no value to the lessor, further than as a security for his rent; and consequently during the whole of that period it is the rent, and that alone, which represents the value of the lessor's interest in the soil.

The case of a lease for 999 years—the usual term in Lancashire and North Cheshire—is still stronger, the grant being to all intents and purposes tantamount to a grant in fee; the only difference being that it gives the grantor a greater security for his rent by means of the proviso for re-entry, which he could not have in a grant in fee.

It appears from a case referred to in your number for the 12th instant that the Commissioners, when called upon to adjudicate upon the stamps affixed to a grant in fee in which the purchaser covenanted to do certain acts for the benefit of the vendor on his adjoining property, held that the deed was properly stamped, even though it had not the extra 35s. stamp affixed. Their decision, however, was quite the other way in the case of a Cheshire building lease for 999 years lately presented by my firm for adjudication. There they required the extra 35s. duty to be paid.

From this it would seem that the Commissioners are guided in their decisions, not so much by the question of *value* as by the fact whether there be or not a reversion reserved—where there is not the grantee may enter into any onerous covenants for the benefit of the grantor, but where there is (even though the reversion is not worth a dump) covenants to build or improve become a "further or other *valuable* consideration" in the opinion of the Commissioners; and the same rule is applied whether the lease be for 9 years, 99 years, or 999 years.

There would no doubt be some difficulty in determining when covenants to build, &c., do or do not add to the immediate *value* of the reversion, but this very difficulty I contend goes far to show that the Act of 17 & 18 Vict. c. 83, never was intended to apply to covenants contained in building leases; at all events it raises a doubt the benefit of which ought to be given to the subject and not to the Crown.

My argument, if it is worth anything, goes to show that according to the wording of the Act the decision in *Boulton's case* is erroneous; but though there is no appeal from that decision there is nothing to prevent the point being brought under the review of the Court of Exchequer in an appeal from an adjudication on another building lease.

This I understand is in contemplation, and if it is done I hope that the case selected will be a lease for 999 years.

Besides the inconsistency I have referred to there are several other inconsistencies resulting from the decision in *Boulton's case*, I will only refer to one.

Previously to the passing of the 16 & 17 Vict. c. 59, the duplicates and counterparts of deeds were chargeable with the same duty as the original deed, where such duty did not amount to 5s., and where the same amounted to 5s. or upwards then with 5s., but with the proviso that in the latter case the duplicate should not be available unless stamped with a stamp denoting the payment of the full duty on the original deed, which consequently had to be produced at the Stamp Office to show that the full duty had been paid before having the denoting stamp affixed; and such is still the law as regards the counterparts of all deeds except leases, for by the 16 & 17 Vict. c. 59, s. 12, it is enacted that the above proviso should not apply to the counterparts of leases stamped with a 5s. duty, unless (which is seldom the case) signed by the grantor or lessor.

Now, according to the recent decision, the following might be the result—namely, that the counterpart of a building lease reserving a rent not exceeding £5, for which an *ad valorem* duty of sixpence is charged, could not be given in evidence unless it had the additional 35s. stamp, whereas the counterpart of a building lease reserving a rent of £25 or upwards could be given in evidence though only stamped with a 5s. stamp, notwithstanding it might be shown that the original had not been stamped in accordance with the decision in *Boulton's case*.

If this view be correct (*a*) the result may be that a lessor may sue a lessee on a counterpart of a lease stamped with a 5s. duty for a breach of covenant to build, even though the extra 35s. which ought to have been paid in respect of the very same covenant has not been paid.

Does not this again show that it was not the intention of the Legislature to impose anything more than the ordinary *ad val.* duty and progressive duty, if any, upon leases containing covenants to build or improve? J. E. W.

Lincoln's-inn, Feb. 23.

(*a*) This would appear to be your view by your note on "Lessor's" letter in your number of the 12th. According to this the stamps on a lease for ninety-nine years, and on the counterpart reserving a rent of £5 would be £3 16s., whereas those on a lease and counterpart for the same term reserving a rent of £25 would only be £2 5s.

The following has been forwarded to us for publication:—

Copy letter from Messrs. Jas. & Jno. Hopgood to the Chancellor of the Exchequer, in relation to the Question involved in the Hon. R. Bourke's Parliamentary Notice for Friday, 25th February, 1870.

14, King William-street, Strand,
22nd February, 1870.

Sir,—The gravity of the question on which we now address you, will, we trust, be deemed a sufficient excuse for our so doing. The subject of this letter is the question lately discussed in the Court of Exchequer (*Boulton's case*) in relation to the stamps necessary for a certain class of leases.

At the risk of appearing pedantic, we would make the following general observations. They appear to us necessary, in order to put the question clearly, and free it from technicalities which would otherwise obscure it.

Leases of houses and buildings may be broadly divided into three classes:—

1. Where the property is let at its full annual value.
2. Where a lower rent is taken in consideration of a premium paid by the lessee.
3. Where a rent less than the full annual value is reserved in consideration of an outlay by the lessee in building or other improvements.

Every one acquainted with the subject knows that a lease on its face is granted in consideration of the rent and lessee's covenants, and every lease contains covenants according to the circumstances environing the property demised by it, and notably in cases where unfinished buildings are demised there is a covenant to complete such buildings within a certain time.

It is also well known that (almost without exception) houses and buildings erected by lessees are demised to them before the buildings are completed, the lessees being thereby enabled to raise money on security of the leases.

The present stamp duties payable on leases are settled by the Stamp Acts of 1850 and 1854, and the amount of such duties is based on scales depending on the quantum of rent reserved and the length of the term of years granted. Where

a pecuniary premium is paid such premium involves a special further duty in respect of it.

The stamp duties are set forth in alphabetical schedules to the Acts, and any special matter requiring notice is introduced into these schedules by italicised notes; so that, practically, if you want to ascertain the stamp duty payable on any particular instrument, you merely refer to the schedules of the Acts.

There would seem, then, to be no ground for difficulty about the matter, and none has been felt until within the last few weeks, consequent upon a judgment of the Court of Exchequer as to the stamps which ought to have been impressed on a lease of a house built by the lessee (a Mr. Boulton), demised at a ground rent before the house was completed, and containing, naturally and reasonably, a covenant by the lessee to complete it within a defined period.

[The letter then states the question decided in *Boulton's case*, 18 W. R. 351.]

One of the consequences of this decision is, that if the house had been finished when the lease was granted, no covenant to complete being requisite, no further stamp duty would be payable, but the house being unfinished and a covenant to complete being requisite, an additional duty of thirty-five shillings becomes payable in respect of this covenant, and thus, although the primary stamp (assuming the ground-rent to be under (say,) £10), would be six shillings, the additional stamp, incidental to what may be called a mere accidental circumstance in relation to the subject-matter of the demise, would be about six times as much.

Although this judgment has spread dismay and confusion throughout the country, seeing that it affects the validity of hundreds of thousands of deeds, and impedes daily a vast amount of business in which dealings with leasehold property are concerned, we feel that it is not within our province here to discuss its correctness. Nor is it within our province to offer an opinion as to the expediency, upon general rules of policy or special fiscal exigencies, of levying taxes of this nature. We merely venture, Sir, to call your attention to the imperative necessity of some immediate legislation in relation to the matter; the question is of far greater moment than any mere consideration of revenue. The interests of a vast number of persons (landlords as well as lessees) are affected, for it must be observed that, the stamps on counterpart leases being regulated by those on the leases themselves, there are thousands of counterpart leases in the muniment rooms of our great landed proprietors, which are improperly stamped according to the law as laid down by the Court of Exchequer, and these in their present state would be useless in any legal proceedings. We would also beg to remind you that in this instance no blame is attributable to any class of persons—the practice as to stamping leases has been uniform—the stamp office officials have construed the Acts in the same manner as that in which they have hitherto been construed by the legal profession, and have given formal opinions that no stamps other than those applicable to rent were payable. Our own professional experience enables us to appreciate the immense magnitude of the interests involved in this question, and the impossibility of remedying matters by an attempt now to stamp all deeds deficient in the additional stamp referred to. In our own office more than 3,500 leases, granted since the Act of 1854, have passed through our hands as solicitors for lessors, nearly all of which come within the principle of *Boulton's case*, and as the counterparts of a great proportion of these leases are also insufficiently stamped, according to the law as now laid down, it will be seen that upwards of 6,000 deeds affected by the decision in question, have passed through our office alone. Now seeing that the question applies to all England, Wales, and Scotland, and seeing also the enormous amount of building which has taken place within the last sixteen years throughout the country, it is obvious that the question is of such magnitude that it can only be satisfactorily dealt with by an Act of Parliament declaring that all leases duly stamped in other respects shall not be deemed invalid, so far as regards stamp laws, by reason only of the omission to stamp them with the additional stamp referred to; it will be obvious also that the law should be clearly laid down for the future guidance of the public in relation to this matter. Apologising for the length of this letter,

We have the honour to be, Sir,
Your faithful Servants,
JAS. & JNO. HOPGOOD.

To the Right Hon. the Chancellor of the Exchequer.

BOULTON'S CASE—PROGRESSIVE DUTY, &c.

Sir,—I beg to send you a contribution to the *literature* of this now famous case, in regard to how (in the case of leases)

Progressive duty,
Duplicates and counterparts, and
Assignments and surrenders not upon sale or mortgage,

are affected by it; and in which your correspondent "Lessor," of a fortnight since, will find a response to his appeal for information.

Upon a study of the decision of the Court and of the Acts with reference to the above heads of duty, the following is the result:—

That the decision does *not* affect the progressive duty in cases where the *ad valorem* duty be less than 10s: thus—

(1) Lease for ninety-nine years at £5 ground rent	0	3	0
In respect of the consideration to build, or of covenants to build	1	15	0
Progressive duty ...	0	3	0
(2) But it *does* affect the counterpart or duplicate of such a lease, the duty on which will be	0	5	0
Progressive	0	2	6
(3) And an assignment or surrender of any such lease, *not* upon a sale or mortgage, the duty will be	0	3	0
Progressive	0	3	0

And the duplicate of such assignment, the same.

These propositions are deduced and founded thus:—

(1) The 17 & 18 Vict. c. 83, s. 16, on which *Boulton's case* was decided, imposes the extra duty (35s.), "except progressive duty": therefore the progressive duties must follow the *ad valorem* duty.

(2) But under "duplicate or counterpart" the charge is "of any deed or instrument chargeable with *any stamp duty or duties*," &c.

(3) Then assignment or surrender of lease upon any other occasion than a sale or mortgage, a duty equal to the *ad valorem* duty with which a similar lease would be chargeable (*vide* schedules of 13 & 14 Vict. c. 97, and of 23 & 24 Vict. c. 111).

In the foregoing I have put the case of leases, but the result would be the same in the case of other kinds of deeds chargeable with *ad valorem* duty under 10s.; and to which the separate 35s. stamp would, under section 16 of the said 17 & 18 Vict. c. 83 (*a*), be chargeable. If, therefore, the foregoing statement of the operation of *Boulton's case* be correct—about which I venture to say there need be no doubt,—it will be readily marked that beyond the said 35s. stamp—as to which nothing more need now be advanced—the anomalies and inconsistencies flowing from the decision of the Court are most glaring, and still further reduce the little that was previously remaining of unity and harmony in the body of the Stamp Law, and so leave it thoroughly, as you say in your remarks, "rotten" for purposes of reference.

SCRUTATOR.

February 21.

(*a*) It is rightly suggested last week by "Veritas" that the decision in *Boulton's case* would not stop at leases, but would extend to the charging the separate 35s. stamp to other deeds.

COSTS.

Sir,—A case referred to in Pothier on Obligations, Evans' Ed. App. 13, seems to answer the question "Lex" asks in your last number.

In *Pitts* v. *Carpenter*, 1 Wilson, 19, it was held that the plaintiff, to whom a larger debt than 40s. was originally due, but whose demand was reduced by set-off to less than that sum, might bring his action in a superior court, and was not within the provisions of a local Act which confined debts of less than 40s. to an inferior jurisdiction.

Lincoln's-inn, Feb. 22. J. M. M.

Of the sixty-six United States senators forty-six are lawyers.

One of the Pennsylvania courts has decided that owners of dogs that bite are responsible for all injuries done, whether on the street or on the premises of the owner.

PARLIAMENT AND LEGISLATION.

HOUSE OF LORDS.

Feb. 18.—*Jurisdiction of Judges Bill.*—The Lord Chancellor said the object of this bill was simply to enable any one judge of any one of the three superior courts at Westminster to sit, upon request, in any of the other courts, for every purpose, with the same jurisdiction and power as if originally appointed judge of the court to which he is so invited. It proposed to enable the Chief Justice or Chief Baron, on his court being overloaded, to invite to his assistance a judge from any of the other courts, and to enjoy the full benefit of his exertions (an assistance only partially rendered by two previous Acts). It further enabled the judges to sit in Banco in any one court in two divisions, and empowered more than two courts to sit at the same time in London or Westminster at *Nisi Prius*, that power being at present confined to two. This was a temporary measure which would provide for the present pressure of business in the Queen's Bench. The Government did not intend to fill up the vacancy caused by the lamented death of Mr. Justice Hayes, because seventeen judges (including the three lately appointed, who would for the present, at any rate, be available) was quite an adequate number. In the Chancery Appeal Court the illness of Lord Justice Rolt and other accidents had occasioned—when he (the Lord Chancellor) became Lord Justice—a year and a half's arrears, which were subsequently got rid of, and there were now only thirteen appeals awaiting hearing. He would now explain why the Government did not mean to fill up the vacancies. In March, 1867, the Judicature Commission was appointed. The inquiry was entered upon with the greatest anxiety, for it had long been the opinion that we had suffered grievously in our whole system of judicature—nay, in our whole system of jurisprudence—from the unhappy separation of our courts into two distinct branches, administering law on totally distinct principles. He supposed no civilised nation at any period of its history had failed to find an epoch when, from the desire of rendering justice fully and fairly to all persons, according to the various emergencies which arise as civilisation advances, it had found itself obstructed by those precautionary measures which tribunals from time to time thought fit to take in order to secure justice, but which at length, settled down into a rigidity of practice incapable of accommodating itself to the wants of mankind, necessarily brought about the very reverse,—viz., injustice, sometimes of the most serious description. Even Rome, hard and severe as her rules of common law at one time were, early learned, as time advanced and the various interests of civilisation required change, to entrust the prætor with the power of so far mitigating its severity as by degrees to introduce those changes which resulted, at a far later period, in the whole administration of justice being committed to one single tribunal, which had full power over every circumstance in the cases brought before it, and competent to administer full and complete justice. Scotland had had the benefit of that course of procedure with reference to the law of Rome, as also all the various countries of Europe which have in effect adopted the system of Roman law, though wisely modifying it by various codes of procedure of their own. But in this country it was not so. Originally, we were free from many of the difficulties which have since sprung up. Originally the Great Council of the King, dividing itself into various branches, administered the law, not, as afterwards, by separation into totally distinct Courts having no intercommunion with each other, but simply as the division of labour required, by handing over to one or another branch those particular functions for which it was thought peculiarly competent, still with an interchange and intercommunion of the several branches of the judicature. The Privy Council was still framed very much more on that model than any of our Courts, for it never separated itself by hard and definite lines into separate Courts and jurisdictions, but retained the power of entrusting to committees the particular subject matters thought most expedient for separate investigation, always with the freest power of intercommunion and assistance. From the King's Bench, Common Pleas, and Exchequer being entrusted with various functions, it ultimately resulted that each in many respects held exclusive jurisdiction, introducing a rigidity and stiffness into the administration of law which was in itself disastrous. When, moreover, the evil became apparent, when the necessities of mankind required far more elasticity than any of those courts appeared to possess, when property passed more freely and a greater variety of rights arose, the Court of Chancery, which originally framed writs of procedure in the Courts of Common Law, and for a time kept pace with the wants of the age, by framing special writs for special circumstances, was compelled, by the difficulty of determining rights at Common Law, according to the strict system which had gradually grown up, to introduce a court of its own. It thus not only remedied the severity of the law, but (which some supposed to be its function, though that was not so, unless that severity contained some ingredient rendering it manifestly inequitable) adapted itself to the wants of mankind by specific remedies, such as the courts of law could not grant. In that way it took upon itself a jurisdiction wholly separate from the common law, and the consequence was two species of rights co-existing constantly in the same individual. He was entitled, therefore, to a remedy against his opponent by summoning him at common law; but while or after doing this, with full certainty of success, he might be declared by another jurisdiction to be as clearly in the wrong in the second court as he was clearly in the right in the first. He could not only be arrested on his proceedings in the first court, where he was entirely right, but arrested on penalty of costs for having attempted to assert his rights in that inequitable manner. That surely could not be a satisfactory state of things. Another ground of difficulty was the frequent inability of the common law to afford an adequate remedy. The Common Law Courts began at a time when there was great simplicity in the ordinary transactions of life, even in such small portions of dealing with contracts and mercantile affairs as came before them, and the general result was "aye" or "no" upon a single question, matters being brought to a simple issue of law or fact, to which the whole energies of the Common Law Judges were directed. They would scarcely hear of anything which could not be brought to a single point, and there had, therefore, to be a regular course of pleading, a regular statement of the case, a plea put in, replication to that plea, and so on, until the case was reduced to a distinct point of law or fact, whereupon the whole matter was one between A and B. No other parties could be introduced, and the question of fact was determined by a jury. The Court of Chancery, on the other hand, could enter into a complete investigation of any matter, however complicated, accommodating itself to every species of right and inquiry, simply stated in a bill. It required all parties interested to be brought before it, and gave great facilities for determining once for all the rights of all concerned. It had moreover several means of affording redress of which the common law was destitute, *e.g.*, injunctions and specific performance. Unhappily, from a very early period there arose a jealousy of the Court of Chancery, which diminished its popularity, on account of its being administered at one time almost entirely by ecclesiastics, and of a notion that it introduced the Roman law, and that this was adverse to the principles of liberty. There was a great preference, too, for a decision by a jury over one by a single judge. But, whatever, the cause, the effects were for many years apparent. Thus, on the one one hand, the Courts of Common Law by degrees became so rigid in their rules that a man not unfrequently lost his property through a mistake in the pleading or conduct of the case and through the plea being overruled, while on the other, great difficulties arose in the Court of Chancery through its becoming somewhat more fixed in its proceedings than formerly. Conflicts occurred in the reign of James I. between the two classes of courts, arising simply from a misapprehension of the state of the case, the interference of the Court of Chancery being not with the court but with the plaintiff, in respect of his not being entitled to take advantage of his remedy at common law. Not until late years had attention been drawn as it ought to have been to the great inconvenience of the separation of the two jurisdictions, which gave but too much ground to the saying that a litigant might be torn into two parts, one half of his case being decided at Common Law and the other in Chancery. Clearly a man should have his whole right determined by one court, whichever it might be, and the only plan was to entrust to one court jurisdiction over the whole subject-matter of any cause. As early as 1657 Sheppard (of Sheppard's Touchstone), in a book called England's Balm, pointed out this, and suggested what was afterwards carried out by "Cairns'" and "Rolt's" Acts.

Sheppard also noticed the inconsistency of giving damages for injuries to the person to the sufferer alone and refusing them to his family in the event of his being killed, an anomaly remedied by Lord Campbell, and he recommended that a bankrupt's subsequently acquired property should be available for his creditors, a principle only adopted last session. The course of procedure by which Courts of Equity on the one hand were so hampered as to be supposed so wholly ignorant of law as to be obliged, if a point strictly of law arose, to send it to the Common Law Courts, and by which the latter Courts were prevented from doing their duty in the event of an injunction or other step being required, had been remedied, but only partially. A man had never been deemed disabled for the Lord Chancellorship because he had not been trained at Equity, although, when sitting in Equity, he was supposed to have forgotten all the law he ever learned, and would have to consult the Common Law Judges on a legal question. Lord Eldon was first Chief Justice of the Common Pleas, Lord Erskine was also almost entirely a Common Law man, and of his successors five received their whole training at Common Law, five their whole training in Chancery, and Lord Cranworth happily combined both sources of instruction. Taking all these things into account, one cannot be surprised at the appointment of the Commission. The Court of Chancery had by degrees been considerably improved, commencing perhaps, though feebly, in 1815, with a Commission under Lord Eldon, the only result of which was the very necessary appointment of a Vice-Chancellor. After that, Lord Brougham's celebrated speech in 1828 stirred the public mind to its very depths: from that period dated the more general interest shown in this dry subject. Lord Chancellor Lyndhurst, in 1827, commenced reforms by orders, and that course had been continued by successive Chancellors. In the time of Lord Truro a Commission was appointed, mainly at the instance of Lord Romilly, then Attorney-General, and there was in 1851 a Commission also on the Common Law Courts. Both those Commissions recommended that wherever a cause began there it should end, and that gave rise to some subsequent arrangements already mentioned. Lord Westbury had also done much to stir up public opinion. The present Commission reported in March, 1869. Subject to certain notes appended to some of the signatures, and to the objection of the judge of the Court of Admiralty, they unanimously agreed that all the Courts into which they were directed to inquire should be consolidated into one, and that that Court should have the power of dividing itself into separate divisions, not for the purpose of continuing the system of separate jurisdictions, but in order to hand over from time to time, like the Privy Council, the business proper to the particular division, subject to the reservation that any judge may sit in any division, and that if desirable a cause may be removed from one division to the other by the simple process of walking from one room into another. Great care should, however, be taken to avoid again hardening into a rigid system, incapable of application to the exigencies of the times. That should be provided for in this manner:—The High Court should, in itself, unite all the powers now vested in any of the Courts, or in the judges of any one of the Courts. Having these powers it should then commence the work of distribution—not acting in so rigid or settled a manner as to prevent its arrangements from being altered again, if necessary, by the same body, but laying down rules for the guidance and conduct of business, and also laying down rules as to pleading, endeavouring to make them as simple as possible. Without going into the considerable details as to the form of pleadings and the taking of evidence, the scheme resolved itself into this, that there would still be a Court of Chancery, or a Court equivalent to the Court of Chancery—for there was no great magic in names; there would still be a Court equivalent, in the same way, to the Courts of Queen's Bench, of Common Pleas, and Exchequer; and, lastly, a Court in which the business of the Courts of Probate, of Divorce, and of Admiralty would be carried out in the same division. It was thought desirable that the Court of Appeal should not be constituted of judges who had already exercised their functions in the Court of First Instance, though a few of these judges might be placed in the Court of Appeal. As to the Master of the Rolls, it was determined that he should be a judge of appeal, and should be removed from the Court of First Instance, and for this reason. In 1851 two Lords Justices of Appeal in Chancery were appointed, who, together with the Lord Chancellor, formed the Court of Appeal; in which court, either the Lord Chancellor might sit alone, or the two Lords Justices might sit by themselves, or all three might be united in the hearing of causes. The Lords Justices are placed in the rank assigned to them by the Act of Parliament—next after the Lord Chief Baron; the Master of the Rolls, on the other hand, was third in the roll of legal dignities—the Lord Chancellor being first, the Chief Justice of England second. Accordingly, it was desirable that the Master of the Rolls should not occupy a position in the Court of First Instance; otherwise, his decisions, if overruled, would be capable of being overruled by two Lords Justices, inferior in professional rank to himself. But if he were removed to the Court of Appeal an additional judge would be necessary to supply his place in the earlier tribunal; and that was provided for by the Bankruptcy Act of last year, under which the Chief Judge of the Bankruptcy Court was appointed specially with a proviso that in any future appointment a judge of one of the superior courts should exercise the functions of the Chief Judge in Bankruptcy. With regard to the judges of the common law courts, the recommendation was that there should be five judges acting in each division, instead of six, as at present. There would thus remain three judges for the discharge of the other duties cast upon them. Of these three, one would be placed in the court which would deal usually with Admiralty, Divorce, and Probate proceedings; and thus we should have the same tribunal in point of number, and no doubt also in point of ability, as we now had in the Divorce Court. Two others would remain who might be otherwise usefully employed. There would be a permanent Court of Appeal, taking all cases, Common Law or Equity, indiscriminately. Over this Court the Lord Chancellor would preside; the Master of the Rolls would also be a member *ex officio*, together with four permanent Judges; and it would further consist of three Judges to be selected annually, from among the Judges of the Court of First Instance. This was a general outline of the plan proposed. Probably nine instead of ten Judges would be quite sufficient. It might be asked whether there were not special circumstances in the case of the Courts of Admiralty, of Probate and of Divorce; and undoubtedly their functions had been exclusively confined to a course of procedure having reference to those special matters; but cases were continually arising, especially under the enlarged powers which had been granted to the Court of Probate, which might as well be dealt with by one branch of the judicature as another. As regards the Admiralty, in time of war special and very difficult questions might arise; but in ordinary times it dealt solely with questions of property. And with regard to Admiralty practice, two wholly different principles were acted upon in the present day. If a ship be run down, and an action be brought at common law, and it is proved that there have been faults on both sides, the plaintiffs will fail to recover damages altogether; whereas in the Court of Admiralty, somewhat after the Jewish jurisprudence, the two losses are added together, and the Court determines in what proportion the burden shall be borne. To give other instances of inconveniences arising under the present system would be tiresome. The report also represented the unsatisfactory constitution at present of the Court of Exchequer Chamber. As to the circuits the report was not altogether satisfactory, and on that head it was not now intended to do more than abolish the Home Circuit. He had a further suggestion to make which he thought would be found of very great convenience, and would not diminish the jurisdiction of the House, namely, that, adopting a practice analogous to that at the Privy Council, their Lordships should at the commencement of every session appoint a committee of appeal—a judicial committee of the House. The committee might be empowered to sit during the recess and during prorogation; but it would not be necessary to continue that practice long, because the appeals would rapidly diminish. He also proposed that this committee should be empowered to call in aid any member of the Judicial Committee of the Privy Council—the report of the Committee having always to be affirmed by the House. He proposed to embody these alterations in two bills—one applicable to the Court of First Instance and the other to the Court of Appellate Jurisdiction. He was not now prepared to lay the bills on the table, but hoped soon to do so. In conclusion, his Lordship rejoiced to think that at last the great public work was about to be commenced, and suitable law courts provided under one roof.

Lord Cairns said it was impossible to overrate the importance of the statement they had just listened to. At present he would only refer to one detail. It was thought by the Commission that the Appellate Court should consist of the Lord Chancellor and nine other judges, so that there might be some certainty of having three judges for each of the three divisions, and this he hoped would be carefully considered before introducing the bill. He approved the idea of having the appellate jurisdiction of the House conducted through a Judicial Committee in the same way as the appellate jurisdiction of the Privy Council is conducted by the Judicial Committee of that body; but never thought of advocating that such Judicial Committee should sit during the vacation. He did not think that the Judicial Committee of the House could be so composed as to enable its members during the time when the House was not sitting to devote attention to appeals. In conclusion, all were anxious that the reform should be passed in the best possible form, and that the great blots in the judicature of the country should be as speedily as possible removed.

Lord Westbury congratulated the House on the noble and extensive plan of reform now sketched. With respect to the appellate jurisdictions, as proposed, he saw some difficulties.

The bill was read a first time.

Feb. 22.—The *Sunday Trading Bill* was read a second time.

Feb. 24.—The *Judges Jurisdiction Bill* was read a second time.

HOUSE OF COMMONS.

Feb. 18.—*Equalisation of Poor's Rate (Metropolis).*—A bill by Mr. Goschen was read a first time.

Feb. 21.—The *Mines Regulation and Inspection Bill* was read a second time.

Assessment.—Mr. Goschen moved for a Select Committee on Local Taxation.

Sir M. Lopes moved, but ultimately withdrew, an amendment to postpone the committee until the whole question was in a position to be dealt with. The motion was agreed to, with the addition, at the suggestion of Mr. G. Hardy, of an alteration to make it clear that the inquiry would include local taxes expended for imperial purposes.

Mr. Corrance added an instruction to the Committee to inquire further into the proper classification of rates, with a view to determine their proper incidence upon the owners or occupiers of such rateable property.

Feb. 22.—The *Avoidance of Sales of Next Presentation to Benefices Bill* was read a first time.

Suburban Commons Protection.—Mr. Cowper-Temple introduced a bill.

Acknowledgment of Deeds by Married Women.—Mr. Dodds introduced a bill to facilitate the execution of deeds.

Election of Coroners.—Mr. Goldney introduced a bill to amend the law.

Public Prosecutor.—Mr Eykyn introduced a bill.

Feb. 23.—*Life Assurance Companies Bill.*—Mr. Cave moved the second reading. The bill provided that life assurance companies should make simple uniform statements every year according to the model forms in the schedules, which, together with the actuarial report to be prepared at longer intervals, would enable people to compare the position of one office with that of another, and to judge of the solvency of any particular company. It also, as a natural corollary to those provisions, enabled policyholders to make application to the Court, and the Court to grant a winding-up order, when it should appear on the face of the returns that the company had insufficient assets to meet its prospective liabilities.

Mr. Shaw Lefevre cordially approved of the bill. He had himself suggested the last mentioned proviso, aimed at a want of winding-up jurisdiction suggested by the decision of James, V.C., in the *European case.*

Mr. Cave thought the bill was defective because it did not bind the company to re-purchase policies at surrender value, nor provide for a uniform surrender value. It also allowed a portion of capital to be lent on personal security.

Mr. McLaren thought the bill gave general satisfaction.

The Chancellor of the Exchequer, after mentioning the great temptation to improvident dealing with funds in hand, and the puffing, touting, and bribing system of getting up the companies, as two unhappy peculiarities, feared the bill, though commendable in some respects—would not remedy these evils. Its mode of dealing with insolvency and transfer of business might be good, but as to the evils he had just mentioned, it was very unsubstantial. It was true that such an amount of Government interference with the accounts of companies, as was enforced in America, would not be tolerated here. He did not believe that any bill based on private associations could meet the difficulty. He would not force the subject, but if it were thought well that the Government should take up the business, he would be willing to act.

The bill was read a second time.

Attorneys and Solicitors Remuneration Bill.—Mr. Rathbone moved the second reading. The system of remunerating for preparation of documents by proportion to their length was repugnant to reason, and gave an opportunity to the unscrupulous. It did not recognise skill. Unless this were altered a measure to render land transfer cheap and expeditious was impossible.

The bill was read a second time.

Feb. 24.—*The Corrupt Boroughs.*—Mr. Pemberton asked the Solicitor-General whether he would inform the House against what persons prosecutions had been commenced or were contemplated by the Government in reference to the Bridgwater, Beverley, or Norwich elections.

The Solicitor-General said that, in regard to prosecutions actually commenced, he had to reply that in the case of Beverley sufficient informations had been exhibited against two persons—Sir H. Edwards and Mr. Burell; and in that of Bridgwater against four—Dr. Hamilton Kinglake, Mr. Vanderbyl, Mr. Fennelly, and Mr. Lovibond. He had, however, to state with respect to Mr. Lovibond, that though those who advise the Crown in these matters were not satisfied with the decision of the Court of Queen's Bench as to the power of revision where a certificate had been refused by Election Commissioners, yet, after the strong opinion pronounced by the Queen's Bench, the Attorney-General considered that, whatever might be the law of the case, the prosecution against Mr. Lovibond ought not to be proceeded with. In that view he entirely concurred, and though informations had been exhibited against Mr. Lovibond, he would not be prosecuted. In the case of Norwich the prosecutions would be against Mr. Stracey, Mr. Hardiment, Mr. Tardue, and Mr. Pennefather.

The *Compulsory Pilotage Abolition Bill* was read a second time and referred to a Select Committee, with power to take evidence.

PENDING MEASURES OF LEGISLATION.

Attorneys and Solicitors Remuneration Bill.

The following is the text of the Attorneys and Solicitors Remuneration Bill (prepared and brought in by Mr. Rathbone, Mr. G. Gregory, Mr. Morley and Mr. Goldney):—

Whereas it is expedient to amend the law relating to the remuneration of attorneys and solicitors:

Be it enacted, &c:

Preliminary.

1. This Act may be cited as "the Attorneys' and Solicitors' Act, 1870."

2. This Act shall not extend to Scotland or Ireland.

3. In the construction of this Act, unless where the context otherwise requires, the words following have the significations hereinafter respectively assigned to them; that is to say,

The words "attorney or solicitor" mean an attorney, solicitor, or proctor, qualified according to the provisions of the Acts for the time being in force, relating to the admission and qualification of attorneys, solicitors, or proctors:

"Person" includes a corporation:

"Client" includes any person who, as a principal or on behalf of another person, retains or employs, or is about to retain or employ, an attorney or solicitor, and any person who is or may be liable to pay the bill of an attorney or solicitor for any services, fees, costs, charges or disbursements.

Part I.—*Agreements between attorneys or solicitors and their clients.*

4. An attorney or solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or any part of any past or future

services, fees, charges, or disbursements in respect of business done or to be done by such attorney or solicitor, whether as an attorney or solicitor or as an advocate or conveyancer, either by a gross sum, or by commission or per-centage, or by salary or otherwise, and either at the same or at a greater or at a less rate as or than the rate at which he would otherwise be entitled to be remunerated, subject to the provisions and conditions in this part of this Act contained.

5. Such an agreement shall not affect the amount of, or any right or remedies for the recovery of, any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed according to the rules for the time being in force for the taxation of such costs, unless such person has otherwise agreed.

6. Such an agreement shall be deemed to exclude any further claim of the attorney or solicitor beyond the terms of the agreement in respect of any services, fees, charges, or disbursements in relation to the conduct and completion of the business in reference to which the agreement is made, except such services, fees, charges, or disbursements, if any, as are expressly excepted by the agreement.

7. Such an agreement shall not, unless by express stipulation, defeat any lien of an attorney or solicitor as such on the documents, moneys, or securities of his client, and in any case in which any property recovered or preserved in any suit, matter, or proceeding may be charged with the taxed costs, charges, and expenses of the attorney or solicitor through whose instrumentality such property has been recovered or preserved, such property may be charged with the amount agreed upon by any such agreement in lieu of such taxed costs, charges, or expenses.

8. A provision in any such agreement that the attorney or solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such attorney or solicitor, shall be wholly void.

9. No action or suit shall be brought upon any such agreement, unless as hereinafter provided; and every question respecting the validity or construction of any such agreement may be examined and determined, and the agreement may be enforced, without suit or action, on motion or petition of any person, or the representative of any person, a party to such agreement, or being or alleged to be liable to pay, or being or claiming to be entitled to be paid, the costs, fees, charges, or disbursements in respect of which the agreement is made, by the court in which the business was done, or a judge thereof, or if the business was not done in any court, then where the amount payable under the agreement exceeds £50, by any superior court of law or equity or a judge thereof, and where such amount does not exceed £50, by the judge of a county court which would have jurisdiction in an action upon the agreement; but the court or judge may refuse to make any rule or order on such motion or petition, and may give leave to the person seeking to enforce the agreement to bring an action at law, or to take such other proceedings as he may be advised.

10. The court or judge before whom any such agreement is sought to be enforced or set aside may, if satisfied that any undue advantage was taken in making the agreement by any party thereto, require the agreement to be given up, and may direct the costs, fees, charges, and disbursements to be taxed according to the rules for the time being in force for the taxation of the same.

11. When the amount agreed for under any such agreement has been paid by or on behalf of the client, or by any person chargeable with or entitled to pay the same, any court or judge having jurisdiction to examine and enforce such an agreement may, upon application by the person who has paid such amount, within twelve months after the payment thereof, if it appears to such court or judge that the special circumstances of the case require the agreement to be re-opened, re-open the same, and order the costs, fees, charges, and disbursements to be taxed, and the whole or any portion of the amount received by the attorney or solicitor to be repaid by him, on such terms and conditions as to the court or judge may seem just.

12. Nothing in this Act contained shall be construed to give validity to any purchase by an attorney or solicitor of the interest of his client in any suit, action, or other contentious proceeding to be brought or maintained, or to give validity to any agreement by which an attorney or solicitor retained or employed to prosecute any suit or action, stipulates for payment only in the event of success in such suit, action, or proceeding.

13. Nothing in this Act contained shall give validity to any disposition, contract, settlement, conveyance, delivery, dealing, or transfer, which may be void or invalid against a trustee or creditor in bankruptcy, arrangement, or composition, under the provisions of the laws relating to bankruptcy.

14. Where an attorney or solicitor has made an agreement with his client in pursuance of the provisions of this Act, and anything has been done by such attorney or solicitor under the agreement, and before the agreement has been completely performed by him, such attorney or solicitor dies or becomes incapable to act, an application may be made to any court which would have jurisdiction to examine and enforce the agreement by any party thereto, or by the representatives of any such party, and such court may order the amount due in respect of the past performance of the agreement to be ascertained by taxation, and the taxing officer in ascertaining such amount shall have regard so far as may be to the terms of the agreement, and payment of the amount found to be due may be enforced in the same manner as if the agreement had been completely performed by the attorney or solicitor.

15. Except as in this part of this Act provided, the bill of an attorney or solicitor for the amount due under an agreement made in pursuance of the provisions of this Act shall not be subject to any taxation, nor to the provisions of the Act of the 6 & 7 Vict. c. 73, and the Acts amending the same respecting the signing and delivery of the bill of an attorney or solicitor.

Part II.—*General Provisions.*

16. An attorney or solicitor may take security from his client for his future fees, charges, and disbursements, to be ascertained by taxation or otherwise.

17. When an attorney or solicitor is hereafter appointed a trustee or executor under any deed or will, then, unless the deed or will otherwise directs, he may, by himself or his partners, act as solicitor or attorney in all matters relating to the deed or will, and shall be entitled to his professional costs and charges in the same manner as if he were not such trustee or executor, subject to the provisions following; that is to say,

(1.) If the deed or will provides a certain remuneration expressed to be in respect of any professional services, he shall not under this section be entitled to any further remuneration for such services:

(2.) If the deed or will appoints co-trustees or co-executors jointly with him, he shall not so act or be entitled to such costs or charges without the consent in writing of his acting co trustees or co-executors for the time being:

(3.) When the aggregate amount of such costs and charges exceeds ten pounds, whether or not any part of such aggregate amount has been paid previously or on account, he shall before taking payment of such amount or of the balance thereof, submit a full account of such amount and of the items thereof to the taxing officer of a superior court of equity, and such taxing officer shall have power either to allow the same, or if he thinks any part thereof unnecessary or unreasonable, to tax such part or the whole thereof in the ordinary manner, and to declare what sum, if any, is due to or from such attorney or solicitor on the whole account.

18. Subject to any general rules or orders hereafter to be made upon every taxation of costs, fees, charges, or disbursements, the taxing officer may allow interest at such rate and from such time as he thinks just on moneys disbursed by the attorney or solicitor for his client, and on moneys of the client in the hands of the attorney or solicitor.

19. Upon any taxation of costs, the taxing officer may, in determining the remuneration to be allowed to the attorney or solicitor for his services, have regard, subject to any general rules or orders hereafter to be made, not only to the length of documents or the time occupied in rendering services, but also to the skill, labour, and responsibility involved.

RE-VESTING OF MORTGAGES BILL.

Whereas it is expedient to amend the law of real property with respect to the revesting of mortgaged estates in mortgagors:

Be it enacted, &c.

1. From and after the *passing of this Act*, it shall be lawful for the mortgagee named in any mortgage-deed or instrument, or for the executors, administrators, or assigns of such mortgagee, to indorse upon such mortgage-deed or instrument a receipt for all moneys intended to be secured by such mortgage, which shall be sufficient to vacate the same and revest the estate of and in the property comprised in such mortgage, whether the same shall be of freehold, copyhold, leasehold, or other tenure, in the person or persons for the time being entitled to the equity of redemption without it being necessary for such mortgagee, his executors, administrators, or assigns, to make or execute any reconveyance of the property so mortgaged, which reconveyance shall be in the form specified in the schedule hereunto annexed, or to the like purport or effect.

2. *Every such receipt shall be chargeable with the same stamp duty as would have been payable on a reconveyance of the mortgaged property.*

3. This Act shall not extend to Scotland.

SCHEDULE to which this Act refers.

Form of Receipt.

In pursuance of "An Act to facilitate the revesting of mortgaged estates in mortgagors," I (or we) the undersigned, being the mortgagee (or mortgagees) within mentioned (or the executors, administrators, or assigns of the within-mentioned mortgagee or mortgagees, as the case may be), do hereby acknowledge to have received all moneys intended to be secured by the within-written indenture. As witness my (or our) hand (or hands) this —— day of —— 18 .

IRELAND.

DUBLIN, February 24.

There is nothing new in our legal circles. The serjeantcy vacant by the promotion of Mr. Dowse to the Solicitor-Generalship, has not yet been given away. Christopher Palles, Q.C., and David Sherlock, Q.C., M.P., are spoken of for it. Both are now occupying a very high position at our chancery bar, Mr. Palles, though comparatively a young man, having within the last couple of years stepped into the foremost place amongst the practising bar.

The nomination for the county of Tipperary took place yesterday. Mr. Heron, Q.C., the late opponent of O'Donovan Rossa, was again proposed, and Mr. C. Kickham, who had been convicted of treason-felony, as a colleague of Rossa's (as one of the three deputy head-centres in the absence of Stephens) was also put forward. A county gentleman was also proposed, but retired in favour of Kickham. The latter, who is a quiet-looking man of literary tastes, is deaf, and was, as well as I can recollect, discharged from penal servitude on account of ill-health. He has not figured in public since his discharge, and, but that the *Irishman* newspaper has been publishing some old letters of his, dated 1864, and of a truculent though national character, would have almost been forgotten.

OBITUARY.

LORD BARCAPLE.

We have to record the death of Lord Barcaple, one of the judges of the Court of Session in Scotland, who expired at his residence, Ainslie-place, Edinburgh, on the 23rd February, in the sixty-second year of his age. Lord Barcaple, formerly known as Mr. Edward Francis Maitland, was a son of the late Adam Maitland, Esq., of Dundrennan, his mother being a niece of Dr. Thomas Cairns, of the same place. He was born in Edinburgh on the 16th April, 1808, and was educated at the High School and University of Edinburgh. In 1831 he was admitted a member of the Scottish Faculty of Advocates, and was appointed an advocate-depute in 1847. In 1851 he was nominated sheriff of Argyleshire, and was appointed Solicitor-General for Scotland in 1854, but retired from office in 1858. Mr. Maitland was re-appointed Solicitor-General in 1859, and served in that office till 1862, when he was raised to the bench as a judge of the Court of Session, taking the title of Lord Barcaple from his grandfather's estate in Kircudbright. In 1859 he was appointed curator and assessor of the University of Edinburgh, and was elected rector of the University of Aberdeen in 1860, in which year the degree of doctor of laws was conferred upon him by the senate of the first-named body. Lord Barcaple married, in 1840, Ann, daughter of William Roberts, Esq., a Glasgow banker, by which lady (who died in 1854) he had a family of four sons and two daughters.

MR. E. BEAVAN.

Mr. Edward Beavan, barrister-at-law, died at Wimbledon Park on the 15th February, after a long illness, of paralysis. The late Mr. Beavan was called to the Bar at the Middle Temple in May, 1844, and was a member of the North Wales Circuit. He had been for many years Counsel to the Board of Inland Revenue.

MR. M. L. JOBLING.

The death of Mr. Mark Lambert Jobling, solicitor, of Newcastle-upon-Tyne, took place at his residence, Barras Bridge, on the 19th February. The late Mr. Jobling was a solicitor of long standing at Newcastle, having been certificated as far back as Michaelmas Term, 1824. On the formation of the Court of Probate he was appointed to the office of registrar for the Northumberland district, including Newcastle and Berwick-upon-Tweed. For several years Mr. Jobling held a seat in the Town Council of Newcastle, and in 1851 he was elected to the office of sheriff, during the mayoralty of Mr. Alderman Armstrong. He was Deputy Grand Master of the Order of Freemasons, and took considerable interest in all matters tending to promote the welfare of the craft; he was also an ardent supporter of the Newcastle Wrestling Society and the Northumberland Cricket Club.

MR. W. P. P. RABY.

The death of Mr. William Parker Poole Raby, solicitor, took place at Cardiff on the 10th February. The deceased gentleman was the son of the late Rev. W. Raby, incumbent of Wetherby, in Yorkshire, and was certificated in Hilary Term, 1861. A few years afterwards he commenced practice at Cardiff, where he soon secured a large police and county court practice. In February, 1868, he was appointed a lieutenant in the 3rd Glamorganshire (Cardiff) Volunteer Artillery, and his funeral took place with military honours.

SOCIETIES AND INSTITUTIONS

ARTICLED CLERKS' SOCIETY.

At a meeting of this society, held in the hall of the Hon. Society of Clement's-inn, Clement's-inn, Strand, on Wednesday, February 23, with Mr. Debney in the chair, Mr. Streeter moved—"That women be no longer excluded from becoming members of all the learned professions." After a very animated discussion the motion was lost by a very large majority.

LAW STUDENTS' JOURNAL.

LECTURES AND LAW CLASSES AT THE INCORPORATED LAW SOCIETY.

Mr. FITZROY KELLY, Lecturer and Reader on Equity—Monday, February 28, class A; Tuesday, March 1, class B; Wednesday, March 2, class C—4.30 to 6 p.m.

Mr. H. W. ELPHINSTONE, Lecturer and Reader on Conveyancing and the Law of Real Property—Friday, March 4, —Lecture, 6 to 7 p.m.

The proposal to appoint a stipendiary magistrate for Portsmouth has been rejected by the Town Council of that borough. Last year 1,789 prisoners were brought before the magistrates, and it was urged that the increasing business of the borough rendered it essential that Portsmouth should follow the example of other large towns in having a gentleman qualified by legal knowledge to sit on the bench. Only four members of the Town Council, however, voted in favour of the proposition. In the course of the discussion it was stated that the fees of the magistrates' clerk amounted to £2,000 a-year.

PUBLIC COMPANIES.

GOVERNMENT FUNDS.

LAST QUOTATION, Feb. 25, 1870.

[From the Official List of the actual business transacted.]

¾ per Cent. Consols, 92¼	Annuities, April, '85
Ditto for Account, Mar. 9, 92⅜	Do. (Red Sea T.) Aug. 1908
3 per Cent. Reduced 92⅝	Ex Bills, £1000, — per Ct. 3 p m
New 3 per Cent., 92⅞	Ditto, £500, Do — 3 p m
Do. 3½ per Cent., Jan. '94	Ditto, £100 & £200, — 3 p m
Do. 2½ per Cent., Jan. '94	Bank of England Stock, 4½ per Ct. (last half-year) 240
Do. 5 per Cent., Jan. '73	Ditto for Account,
Annuities, Jan. '80 —	

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 208	Ind. Enf. Pr., 5 p C., Jan. '72 106
Ditto for Account	Ditto, 5½ per Cent., May, '79 110⅜
Ditto 5 per Cent., July, '80 111⅜	Ditto Debentures, per Cent., April, '64 —
Ditto for Account, —	Do. Do, 5 per Cent., Aug. '73 104
Ditto 4 per Cent., Oct. '88 100⅜	Do. Bonds, 4 per Ct., £1000 25 p m
Ditto, ditto, Certificates, —	Ditto, ditto, under £1000, 25 p m
Ditto Enfaced Ppr., 4 per Cent. 91¾	

RAILWAY STOCK.

Shres.	Railways.	Paid.	Closing prices
Stock	Bristol and Exeter	100	80½
Stock	Caledonian	100	77⅞
Stock	Glasgow and South-Western	100	109
Stock	Great Eastern Ordinary Stock	100	38¼
Stock	Do., East Anglian Stock, No. 2	100	7
Stock	Great Northern	100	117½
Stock	Do., A Stock*	100	118
Stock	Great Southern and Western of Ireland	100	99
Stock	Great Western—Original	100	62½
Stock	Do., West Midland—Oxford	100	42
Stock	Do., do.—Newport	100	35
Stock	Lancashire and Yorkshire	100	128½
Stock	London, Brighton, and South Coast	100	43
Stock	London, Chatham, and Dover	100	15
Stock	London and North-Western	100	124½
Stock	London and South-Western	100	93½
Stock	Manchester, Sheffield, and Lincoln	100	50
Stock	Metropolitan	100	79
Stock	Midland	100	124
Stock	Do., Birmingham and Derby	100	93
Stock	North British	100	35½
Stock	North London	100	122
Stock	North Staffordshire	100	62
Stock	South Devon	100	50
Stock	South-Eastern	100	76½
Stock	Taff Vale	100	

* A receives no dividend until 6 per cent. has been paid to B.

MONEY MARKET AND CITY INTELLIGENCE.

Consols opened heavily, and some large sales effected a further depression, which was augmented by a large demand of money throughout the early part of the week. A recovery, however, seems now to have set in. Foreign securities, which throughout the week have been firm, are now still stronger. Railways were at first persistently heavy, but have latterly improved, and Metropolitans, in consequence of Vice-Chancellor James' refusal of the motion for an injunction in the case of *Salisbury* v. *Metropolitan Railway Company* this day have had a brisk rise. Some favourable reports issued by telegraph companies keep those investments still in favour.

The prospectus of the Anglo-Malteze Hydraulic Dock Company (Limited) with a capital of £150,000 in 7,500 shares of £20 each was issued this week. £68,000 has already been subscribed, and it is supposed that not more than £16 per share will be required.

The prospectus of the South Plynlimon Mining Company (Limited), with a capital of £24,000 in 12,000 shares of £2 each, has been issued. The object of this company is to develop the mineral wealth of the extensive and valuable property known as "South Plynlimon," situate in the parish of Llanbadarnfawr, in the county of Cardigan, in the centre of an immensely rich mining district.

A public lecture on "The Principles and Probable Operation of the Bankruptcy Act, 1869," was delivered at King's College, London, by Professor John Cutler, Barrister-at-Law, on Wednesday evening last. There was a good attendance, comprising several well-known members of both branches of the profession. Mr. Cutler divided his section into four heads—The History of Bankruptcy Law, the Objections to the Act of 1861, the Principles of the Act of 1869, and the Probable Operation of the New Law. The tenor of his remarks upon the fourth head were as follows:—That the Act of 1869 was founded to a great extent on the Scotch law, and that by it the administration and realisation of the assets belong to the creditors, and the decision of all legal points, and the bankrupt's character and liberty, belong to the Court. That at the first stage, all proceedings, whether in bankruptcy, liquidation, by arrangement, or composition, come before the Court. When the Court has decided that they are within the scope of the Act, the proceedings are remitted to the creditors to be carried on by them, or some person or persons appointed by them. The superintending authority of the Court is, however, ready to come into operation at any time if required. In their last stage on all cases the proceedings come again under the authority of the Court. The success or non-success of the Act will depend, to a great extent, on the Court, and to a great extent on the way in which the trustee system works in this country. The working of it in Scotland shows that the expenses of the bankruptcy swallow up, on an average, only about 13½ per cent. of the assets, but the costs in large estates are below, and in small above the average, because there are so many items which are the same whether the estate be large or small. The courts must take a comprehensive and equitable view of the Act. This the Chief Judge may be expected to do, he being an eminent equity lawyer, but it is doubtful whether the majority of county court judges will do so, they having been trained up at the common law bar. Again, much will be delegated to the registrars both in London and in the country. They will have power to adjourn questions for the decision of the judge by whom they are delegated. If they exercise this power too sparingly they will often take upon themselves to decide points on which they are not competent to decide; if they exercise it too freely they will unnecessarily cause delay and multiply expense.

Mr. Hall Dare, late secretary to the Royal Agricultural Society of England, has been appointed under-treasurer to the Honourable Society of the Inner Temple.

The revenue officials at New York have issued warrants for the arrest of a number of New York lawyers for not paying the special tax.

Mr. W. Consitt Boulton, solicitor of Hull, has been elected a Fellow of the Society of Antiquaries.

Alpine, California, advertises for a lawyer—"a young, energetic fellow."

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

BIGG—On Feb. 18, at Grosvenor-hill, Wimbledon, the wife of Edward F. Bigg, Esq., prematurely, of a daughter, stillborn.

PULBROOK—On Feb. 21, at Riverside, Quadrant-road north, Highbury New-park, the wife of Anthony Pulbrook, Esq., prematurely, of a son, stillborn.

SHEPPARD—On Feb. 22, at Battle, the wife of Charles Sheppard, Esq., solicitor, of a son.

MARRIAGES.

PINCKNEY—CUSACK—On Feb. 22, at Monkstown Church, county Dublin, Erlysman Pinckney, of the Inner Temple, barrister-at-law, to Frances Elizabeth Mary, eldest daughter of the late James William Cusack, late of Knockbane, county Galway, and Lancaster-gate, Hyde-park, Esq.

DEATHS.

FINCH—On Feb. 23, George Finch, Esq., of 40, Craven-street, Strand, and of No. 31, Gloucester-street, solicitor, aged 42.

JONES—On Feb. 21, Mr. Charles James Jones, of No. 19, Spital-square, solicitor, aged 73.

RUNNACLES—On Feb. 22, at Brighton, Anthony Runnacles, Esq., solicitor, aged 43.

LONDON GAZETTES.

Winding up of Joint-Stock Companies.

FRIDAY, Feb. 18, 1870.

UNLIMITED IN CHANCERY.

Anchor Assurance Company.—Petition for winding up, presented Feb 17, directed to be heard before Vice-Chancellor James on Feb 26. Evans & Co, Nicholas-lane, solicitors for the petitioners.

Birmingham Music Hall Company.—Vice-Chancellor James will, at his chambers, on Thursday, March 3, at 12, appoint an official liquidator.

Saltash and Callington Railway Company.—Petition for winding up, presented Feb 15, directed to be heard before the Master of the Rolls on Feb 26. Harcourt, Middleton-street, Clerkenwell, solicitor for the petitioner.

State Fire Insurance Company (Vice-Chancellor James at chambers).—It is peremptorily ordered that a call of one shilling per share be made on all the contributories of this Company who have been settled on the list of contributories, and who have not been compromised with; and it is peremptorily ordered that each such contributory do, on or before March 8, pay to William Henry McCreight, No. 6,

Raymond-buildings, Gray's-inn, the balance (if any) which will be due from him after debiting his account in the company's books with such call.

LIMITED IN CHANCERY.

Cardiff and Newport Colliery and Ironstone Company (Limited).—Petition for winding up, and for the removal of Mr. Elborough, the liquidator, presented Feb 12, directed to be heard before Vice-Chancellor Stuart on Feb 25. Foster, Gray's-inn square, agent for Williams, Cardiff, solicitor for the petitioners.

Portugese Contract Company (Limited).—Creditors are required, on or before March 30, to send their names and addresses, and the particulars of their debts or claims, to Mr James Cooper, No 3, Coleman-street-buildings, Moorgate-street. Wednesday, April 20, at 12, is appointed for hearing and adjudicating upon the debts and claims.

TUESDAY, Feb 22. 1870.

UNLIMITED IN CHANCERY.

Albert Average Association for British, Foreign, and Colonial Built Ships.—The Master of the Rolls has by an order, dated Feb 12, ordered that the above Company be wound up. Ball, Tokenhouse-yard, solicitor for the petitioner.

Alfred Average Association for British, Foreign, and Colonial Built Ships.—Petition for winding up, presented Feb 21, directed to be heard before Vice-Chancellor Malins, on March 4. Lowless & Nelson, Gracechurch-st, solicitors for the petitioners.

Arthur Average Association for British, Foreign, and Colonial Built Ships.—The Master of the Rolls has, by an order dated Feb 12, ordered that the above company be wound up. Ball, Tokenhouse-yard, solicitor for the petitioner.

Herne Bay Pier Company.—Petition for winding up, presented Feb 18, directed to be heard before Vice-Chancellor Malins on March 4. Lumley & Lumley, Old Jewry-chambers, solicitors for the petitioners.

Queen Average Association for British, Foreign, and Colonial Built Ships.—Petition for winding up, presented Feb 21, directed to be heard before Vice-Chancellor Malins on March 4. Lowless & Nelson, Gracechurch-street, solicitors for the petitioners.

LIMITED IN CHANCERY.

Bonelli's Electric Telegraph Company (Limited).—Vice-Chancellor James has, by an order dated Feb 12, ordered that the winding up of the above Company should be continued. Peckham, solicitor for the petitioner.

Freehold and General Investment Company (Limited).—Petition for winding up, presented Feb 22, directed to be heard before Vice-Chancellor Malins on March 4. Swann & Co, Chancery-lane, for Tweed, solicitor for the petitioner.

Glyn Neath Steam Coal and Iron Company (Limited).—The Master of the Rolls has, by an order dated Feb 12, ordered that the winding up of the above company be continued. Uptons & Co, Austinfriars, solicitors for the petitioners.

Friendly Societies Dissolved

TUESDAY, Feb. 22, 1870.

Church Sunday School Friendly Society, Girls' School-room, Horsforth, York. Feb 19.

Miners' Sick and Burial Society, Millstone-inn, Butt-lane, Stafford. Feb 19.

No. 1 Burial Society, White Hart Tavern, Lombard-street, Battersea. Feb 19.

Creditors under Estates in Chancery.

FRIDAY, Feb. 18, 1870.

Last Day of Proof.

Cooper, Chas, Hilton, Salop, Farmer. March 15. Re Cooper, V.C. Stuart. Prior and Bigg, Southampton-bldgs, Chancery-lane.

Coulson, Thos, Drax, York, Gent. March 14. Coulson *v* Senior, V.C. Stuart. Clark, Snaith.

Davy, Joseph, Kelling, Norfolk, Farmer. March 11. Davy *v* Davy, M.R. Miller & Son, Norwich.

Harrison, Jas, Stanwick, Northampton, Farmer. March 10. Sharman *v* Harrison, V.C. James. De Gex & Harding, Raymond-buildings, Gray's-inn.

Heaton, Thos, Wigan, Lancaster. March 14. Heald *v* Walls, V.C. James. Ellis, Wigan.

Fleetwood, Sir Peter Hesketh, Fleetwood, Lancaster, Baronet. March 18. Collard *v* Fleetwood, M.R. Tompson & Co, Stone-buildings, Lincoln's-inn.

Page, Hy, Greenwich, Kent, Brewer. March 21. Richardson *v* Page, V.C. Stuart. Dobie, Lancaster-place, Strand.

Swallow, Matthew, sen, Ewell, Surrey, Brick Manufacturer. March 25. Swallow *v* Swallow, M.R. Kingdon & Williams, Lawrence-lane, Cheapside.

Swallow, Matthew, jun, Stoley, Norfolk, Brick Manufacturer. March 25. M.R. Kingdon & Williams, Lawrence-lane, Cheapside.

Watson, Edwd, Bowdon, Chester, Surgeon. March 11. Watson *v* Woolley, V.C. Malins. Grundy, Manch.

TUESDAY, Feb. 22, 1870.

Bignold, Thos, Water-lane, Fleet-street, Gent. Feb 28. Roy *v* Bignold, V.C. James. Blake, Serjeant's-inn, Temple.

Blackstock, Wm, Southport, Lancaster, Slate Merchant. March 15. Blackstock *v* Blackstock. Registrar, Liverpool District.

Davies, Philip, Pontardawe, Llangiucke, Glamorgan, Tailor. March 24. James *v* Davies, V.C. Stuart. David, Swansea.

Grieve, Wm Royal, Waterloo-pl, Kilburn, Wine Merchant. April 9. Grieve *v* Grieve, V.C. Stuart. Fladgate & Co, Craven-street, Strand.

Hyland, Jane, South Geelong, Port Philip, Victoria, Widow. July 1. Page *v* Smith, V.C. Malins. Holmes, Arundel.

Jones, Robert, Penyffordd, Flint, Yeoman. March 3. Re Jones, V.C. Malins. Jones, Chester.

Lloyd, Danl, Lancelot-pl, Brompton, Retired Builder. March 17. Perry *v* Hankin, V.C. Malins. Wedlake & Letts, Mitre-court, Temple.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, Feb. 18, 1870.

Amory, Wm, Skellow, Yorks, Farmer. April 2. Nicholson & Co. Wath, near Rotherham.

Anstruther, Ellen, Bath, Widow. April 11. Burne, Bath.

Avery, Eliz Jane, St John's-rd, Hoxton, Widow. March 24. Watson, Finsbury-pl.

Bradshaw, Fras, Blackwater, Hants, Spinster. April 19. Walker & Co, Southampton-st, Bloomsbury.

Burkenshaw, Matthew, Horncastle, Lincoln, Gent. March 19. Wood, Louth.

Cooke, Jas, St Helen, Worcester, Publican. April 18. Woof, Worcester.

Cox, Robt, Clifton, Bristol, Gent. April 14. Stricklands & Robinson, Bristol.

Dixon, Eliz, Durham, Spinster. April 1. Hutchinson, Durham.

Evans, Enoch, Melton Mowbray, Leicester, Pork Pie Manufacturer. April 6. Latham & Paddison, Melton Mowbray.

Garrittson, John Garritty, Regent-st. March 15. Bevan & Whitting, Old Jewry.

Gifford, Fredk, Exmouth, Devon, Esq. May 1. Sweetland, Lincoln's-inn.

Gunstone, Richd John, Cheltenham, Gloucester, Chemist. Aug 11. Stiles, Northleach.

Harrald, Sarah Louisa, Louth, Lincoln, Widow. July 6. Allison, Louth.

Harrison, Michael, Stanhope, Durham, Land Agent. April 23. Thompson.

Hughes, Margaret, Rhyl, Flint, Spinster. March 31. Williams, Ryle.

James, Thos, Ellesmere-rd, Old Ford, Farrier. March 23. Watson, Finsbury-pl South.

Knaggs, Wm, Bath, Esq, May 7. Simmons & Clark, Bath.

Lyons, Eliza, Southsea, Hants, Widow. April 16. Davis, Cork-st, Burlington-gardens.

Oates, Mary Ann, Leeds, Spinster. April 1. Bulmer, Leeds.

O'Reilly, John, Brighton, Sussex, Esq. March 25. Ward & Co, Gray's-inn-sq.

Owen, Harriotte Anne, Chelmsford, Essex, Spinster. April 9. Cree & Last, Gray's-inn-sq.

Scott, Mark, Birm, Gun Stock Maker. March 25. Tyndall & Co, Birm.

Southwell, Jas, Leeds, Shovel Manufacturer, March 31. Snowdon & Son, Leeds.

TUESDAY, Feb. 22, 1870.

Boughton, John, Rodley, Gloucester, Farmer. March 25. Abell & Coleman, Gloucester.

Bowra, Hy Goodeve, Brooke Lodge, De Beauvoir-rd, Surgeon. April 3. Allen, Grange-rd East, Dalston.

Brodley, Vincent, Leicester, Builder. March 25. Harris, Leicester.

Cawley, Ann, Macclesfield, Cheshire, Widow. March 31. Killmister & Son, Macclesfield.

Exeter, Right Rev Henry, Lord Bishop of, Bishopstowe, Devon. March 25. Sanders & Co, Exeter.

Franklin, Abraham Gabay, South-st, Finsbury. April 16. Davis, Cork-st, Burlington-gardens.

Gardiner, Lot, Bradford, Yorks, Merchant. April 19. Rawson & Co, Bradford.

Garratt, Wm, Upper Tulse Hill, Gent. March 31. Thomson & Son, Cornhill.

Greenhead, Thos, Kingston-upon-Hull, Gent. April 6. Watson, Hedon in Holderness.

Hobkinson, Leonard, Harrogate, Yorks, Farmer. March 21. Hirst & Capes, Knaresbrough.

Hutton, Thos Jas, Lpool, Merchant. March 31. Holden & Cleaver, Lpool.

James, Thos, Ellesmere-rd, Old Ford, Farrier. March 23. Watson, Finsbury-pl South.

Jones, Hon Mary Matilda, Kensington-cresent, Spinster. April 4. Kendall, Union Bank-chambers, Lincoln's-inn.

Little, Jean, Lpool, Licensed Victualler. March 12. Holden & Cleaver, Lpool.

Money, Rev Fredk, Rector of Offham, Southsea, Hants. March 25. Pearce & Marshall, Portsea.

Pullen, John Stevens, Fore-st, Esq. April 1. Janson & Co, Finsbury-circus.

Riley, Timothy, Broadfold Clayton, Yorks, Farmer. March 31. Green, Bradford.

Robson, Sarah, Old-st-rd, Widow. March 31. Watson, Finsbury-pl South.

Rogers, Joseph, Sutton Fen, Cambs, Farmer. March 22. Archer & Son, Ely.

Scott, Fras, St Swithin's-lane, Wine Merchant. March 25. Robinson & Preston, Lincoln's-inn-fields.

Sprent, John, Southsea, Hants, Gent. March 23. Pearce & Marshall, Portsea.

Tanner, Thos, Winthill, Somerset, Gent. March 25. Woolfryes, Banwell.

Thompson, Edward, Brussels, Gent. March 31. Thomson & Son, Cornhill.

Upton, Simeon, Salford, Lancashire, Hat Manufacturer. March 25. Chapman & Roberts, Manch.

Wall, Robt, Pontrillas Farm, Hereford, Farmer, April 1. Humfrys & Son, Hereford.

Ward, Geo, Louth, Lincoln, Gent. May 13. Sharpley, Louth.

Woodin, Joseph Steward, Petersham, Surrey, Esq. April 30. Torr & Co, Bedford-row.

Wright, Hannah, Brookfield, Derby, Spinster. April 11. Wells, Nottingham.

Deeds registered pursuant to Bankruptcy Act, 1861.

TUESDAY, Feb. 22, 1870.

Bailey, John, Weston-super-Mare, Somerset, Plumber. Dec 30. Comp. Reg Feb 18.

Bankrupts.

FRIDAY, Feb. 18, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Amott, Chas Cowper. St Paul's-churchyard, Draper. Pet Feb 16. Spring-Rice. March 17 at 12.

Page, Eliz, Church-st, Greenwich, Widow. Pet Feb 16. Bishop. Greenwich, Feb 28 at 2.

To Surrender in the Country.

Billington, Thos, Stafford, Baker. Pet Feb 14. Spilsbury. Stafford March 2 at 11.

Brind, Thos, Oxford, Tobacconist. Pet Feb 11. Dudley. Oxford, March 2 at 12.

Brown, Chas, Burn Town, nr Tavistock, Devon, Farmer. Pet Feb 15. Pearce. East Stonehouse, March 4 at 11.

Cleverton, Fredk Wm Pouget, Saltash, Cornwall, Attorney-at-Law. Pet Feb 15. Pearce. East Stonehouse, March 4 at 11.

Cobb, Robt Leggett, Norwich, Butcher. Pet Feb 16. Palmer. Norwich, March 1 at 12.

Cooling, Thos, Swineshead, Lincoln, Wheelwright. Pet Feb 15. Staniland. Boston, March 1 at 10.

Depper, Geo. Kidderminster, Worcester, Provision Dealer. Pet Feb 15. Talbot. Kidderminster, March 4 at 12.

Ellal, John, Accrington, Lancashire, Tailor. Pet Feb 14. Bolton, Blackburn, March 1 at 11.

Grimshaw, Robt, Gisborough, Yorks, Boot Maker. Pet Feb 15. Crosby. Stockton-on-Tees, March 4 at 11.

Handley, Philip, Wisbeach, Cambridge, Innkeeper. Pet Feb 15. Partridge. King's Lynn, March 1 at 11.

Prest, John, Hy Harrison, John Jackson, & Richd Cookson, Warrington, Lancashire, Implement Agents. Pet Feb 9. Nicholson. Warrington, March 7 at 2.

Schofield, John, Staleybridge, Cheshire, Grocer. Pet Feb 16. Hall. Ashton-under-Lyne, March 3 at 11.

Schweinbraten (otherwise Braten), Christian, Watford, Hertford, Baker. Pet Feb 12. Blagg. St Alban's, March 5 at 11.

Tinkler, Mary, Stamford, Lincoln, Builder. Pet Feb 14. Gaches. Stamford, March 1 at 11.

Wareing, Fras, Oswaldtwistle, Lancashire, Grocer. Pet Feb 14. Bolton Blackburn, March 1 at 11.

Wilton, Wm John Lander, Ford, Devon, Carpenter. Pet Feb 15. Pearce. East Stonehouse, March 4 at 11.

Under the Bankruptcy Act, 1861.

To Surrender in London.

Downing, Fredk Arundel, Gt Russell-st, Engineer. Adj Dec 10. Brougham. March 4 at 1. Moon, Lincoln's-inn-fields.

To Surrender in the Country.

Birdsall, Thos, Prisoner for Debt, York. Adj Dec 28. Leeds, March 3 at 11.

Myers, Richd, Prisoner for Debt, York. Adj Dec 18. Leeds, March 3 at 11.

TUESDAY, Feb. 22, 1870.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Mann, Thos, formerly of Penge, now resident in the United States of America, Builder. Pet Feb 17. Pepys. March 11 at 12.30.

Phillips, Chas, Young-st, Kensington, Cheesemonger. Pet Feb 21. Pepys. March 8 at 11.

Sharpe, Herbert, Edgware-rd, China Dealer. Pet Feb 19. Murray. March 7 at 11.

To Surrender in the Country.

Carlisle, Jas, Leeds, Cloth Manufacturer. Pet Feb 19. Marshall. Leeds, March 4 at 11.

Davies, John, Truro, Cornwall, Saddler. Pet Feb 15. Chilcott. Truro, March 5 at 11.

Hitchen, Joseph, & Hy Law, Ramsbottom, Lancashire, Cotton Waste Spinners. Pet Feb 17. Holden. Bolton, March 9 at 10.

Johnson, Stephen, Dover, Kent, Gardener. Pet Feb 15. Callaway. Canterbury, March 7 at 2.

Partridge, Wm Josiah, Irthlinborough, Northampton, Butcher. Pet Feb 17. Dennis. Northampton, March 8 at 12.

Thomas, Wm, Pendawdd, Glamorgan, Builder. Pet Feb 8. Morris. Swansea, March 9 at 2.

Under the Bankruptcy Act, 1861.

To Surrender in London.

Hazard, Hy Herbert, Sylvan-grove, Old Kent-rd, Engineer. Pet Dec 31. Pepys. March 8 at 11. Hyrett, Hart-st, Bloomsbury.

BANKRUPTCIES ANNULLED.

FRIDAY, Feb. 18, 1870.

Atkins, Jas, & Wm Cooper Atkins, Riddlesdown, Surrey, Lime Burners. Feb 16.

Crowhurst, Anthony Morris, Aldermanbury, Importer of Fancy Goods. Feb 17.

Slatter, Joseph, Kennington-rd, Cheesemonger. Feb 16.

TUESDAY, Feb. 22, 1870.

Huxley, Thos, Birkenhead, Cheshire, Boot Maker.